

ZONING CODE REWRITE

*Module 3:
Regulations Applying in Multiple Districts*

DRAFT
FOR TASK FORCE REVIEW

PREPARED FOR
CITY OF MARICOPA BY:

DYETT & BHATIA
Urban and Regional Planners

AUGUST 16, 2013

Contents

Introduction.....	1
400 Series Regulations Applying in Multiple Districts	6
Article 401 General Site Regulations	6
Article 402 Design Guidelines	23
Article 403 Green Building Program	30
Article 404 Adequate Public Facilities	36
Article 405 Affordable Housing Density Bonus Program	42
Article 406 Landscaping.....	45
Article 407 Lighting	54
Article 408 Nonconforming Uses and Structures.....	59
Article 409 On-Site Parking and Loading	64
Article 410 Performance Standards.....	81
Article 411 Signs (<i>Proposed Amendment for Portable Signs</i>)	84
Article 412 Telecommunications Facilities	86
Definitions for Module 3	98

This page intentionally left blank.

Introduction

This is the third in a series of three Modules that outline the framework of Maricopa's revised Zoning Code. Module 3 includes regulations that apply in multiple Zoning Districts. The proposed standards and requirements are based on a review of existing development regulations and regulations in peer communities, provisions in the International Energy Conservation Code and the International Green Building Code, comments from city staff, the Zoning Code Rewrite Task Force, the Planning & Zoning Commission, other commissions and boards, and the City Council on the *Diagnosis and Evaluation Working Paper*, as well as staff and Task Force comments on the *Annotated Outline*, and Modules 1 and 2. The goal of the proposed revisions are to create a streamlined, user-friendly set of standards to implement the General Plan and to a new Code that reflects current planning practices in Arizona and state law.

This module establishes a citywide regulatory framework for:

- General site regulations;
- Residential and Commercial Design Guidelines to complement standards for base Zoning District regulations;
- Green Building Program, including requirements for “covered projects” to be defined by the City Council and incentives for green building;
- An adequate public facilities program for roads, water, and sewer systems;
- A voluntary Affordable Housing Program,
- Lighting, Landscaping, and Off-Street Parking & Loading;
- Non-Conforming Uses and structures;
- Proposed amendments to the City's sign code to tighten regulation of portable signs (A-frame signs);and
- Telecommunication Facilities

Definitions for the Adequate Public Facilities Program and the Green Building Program also are included at the end of the Module.

The proposed Articles incorporate provisions and standards used in peer communities, which have been streamlined and simplified, where needed, and expanded, when necessary. Following are highlights of specific proposals, followed by policy questions.

GENERAL SITE REGULATIONS

The general site regulations deal with details such as accessory structures, building projections into yards, and projections above height limits. They also include standards for fences and walls, outdoor storage, screening of mechanical equipment (both roof-mounted and ground-mounted), swimming pools and spas, underground utilities and visibility at intersections. No substantive policy issues have been identified as these are normally straight-forward requirements.

DESIGN GUIDELINES

The *Annotated Outline* included a place-holder for Design Standards in the 400 Series. As the base Zoning District standards addressed these, we modified this Article to present some additional guidance which could be considered in the review and approval process, but would not establish fixed standards. The idea is to express some additional expectations that the City would like to frame the design process, to support pedestrian-oriented development with architectural articulation and views into buildings. Guidelines calling for shading sidewalks also are proposed. The policy question is whether this additional guidance is needed and appropriate for the new Code.

GREEN BUILDING PROGRAM

The proposed Green Building Program tiers off the International Green Building Code, which has been adopted by Phoenix and Scottsdale, among others. It goes beyond sustainable building design and includes provisions and incentives for alternative energy, energy efficiency, landscape irrigation, walkways and bike paths, preferred parking for high occupancy vehicles and hybrid and electric vehicles and mitigation for “heat islands” which can be created by un-shaded asphalt and heat-absorbing roofs. The program is structured so the City Council can establish what types of projects must to conform to the Green Building Program and these requirements can then be refined periodically as the City gains experience with the program itself. These “covered projects” might simply be projects seeking a General Plan amendment, a major rezoning, a new PAD, or if the City Council desires, the list could be more inclusive.

The incentives, such as additional density or greater height, would be established in the base Zoning District regulations and a point system would then be used to determine whether to grant a portion or all of the bonus density/height available to a project.

The incentive program assumes a baseline, such as is set by the International Green Building Code, with additional density or height only available for projects that would exceed the baseline. The advantage of this approach is that the City would not be setting a separate, independent system for project evaluation, but instead would be using customary “Metrics” for assessing what would constitute “green building”. The Code then establishes the program framework, and details are worked out subsequently and embodied in Council resolutions, guidelines and procedures. The policy question is whether this tiered approach to creating a Green Building Program is appropriate at this time and should be included in the Code Rewrite. A related question is whether the Program should have mandatory requirements for some projects in addition to development incentives.

ADEQUATE PUBLIC FACILITIES

Many fast-growing jurisdictions have adopted procedures to ensure that adequate public facilities, typically roads, water, and sewer systems, are in place prior to issuing a Certificate of Occupancy for new development. These issues could be addressed through a negotiation process with Development Agreements used to define what facilities are needed, when they will be completed, and who will pay for them. The proposed regulations are open-ended, and would allow decision-makers to consider not just roads, water and sewer systems, but also drainage, parks and recreation facilities and school facilities. Here, as with the Green Building Program, the policy issue is whether these regulations should be in the Code Rewrite, and if so, do they strike the right balance.

VOLUNTARY AFFORDABLE HOUSING DENSITY BONUS PROGRAM

The Voluntary Affordable Housing Program would enable developers to receive density bonuses. There are two options: either a 20 percent density bonus if 10 percent of the housing units are affordable to lower income households or a five percent density bonus if 10 percent of the units in a condominium project or Planned Development are affordable to moderate income households. A regulatory agreement would be required to ensure the units remain affordable for at least 30 years. These provisions are largely procedural in nature and because the program would be voluntary, there is no obligation to participate. The idea of including such a program had been previously endorsed; the policy issue is whether this approach is appropriate.

LANDSCAPING

The landscaping requirements call for a landscape plan for all new development except single family residences. Minimum standards for trees, shrubs and ground cover are established, and requirements for perimeter and interior landscaping in parking lots are presented. Flexibility is available through provisions that would allow the City to approve an Alternative Landscape Plan. This option allows for creative planting design where developers think that would make sense. One policy issue is while the Code may not want to impose a landscape plan requirement with irrigation on individual single family homes, it could say that visible yards shall be landscape or hardscape; they can not just be dirt.

LIGHTING

The proposed lighting requirements emphasize shielding and filtering, they also include prohibitions of certain types of lighting, such as searchlights for advertising, unshielded lighting for buildings, signs or landscaping, and use of mercury vapor fixtures. Temporary exemptions could be granted if the type of exterior lighting called for in the regulations cannot be obtained.

NONCONFORMING USES – AMORTIZATION PROGRAM

Chapter 408 of the Revised Zoning Code deals with nonconforming uses and structures. Definitions are provided to establish those uses and structures that are legally nonconforming and procedures are put in place to allow for minor modifications. Nonconforming uses have been divided into two classes – those that are relatively benign, and those that may constitute a public health and safety hazard and are incompatible with the General Plan and surrounding community. We were asked to investigate whether a formal Amortization Program should be incorporated into the Revised Zoning Code so that certain uses would be gradually eliminated. Amortization programs are traditionally structured so that identified uses in particular zoning districts or parts of a city are given a timeframe to terminate, typically two to five years. The owners and businesses are provided notification of termination, and there is an extensive hearing/exemption process with built-in appeals. Ideally, at the end of the program period, all nonconforming uses are closed and/or modified to a legal use. While these amortization programs have good intentions – removing those uses that are a public hazard and/or do not meet General Plan policies – they tend to be ineffective in reaching the desired goal. The programs are difficult to fully carry out due to the required exemption and appeals process. Enforcement of these provisions also becomes a large issue for many communities. In addition, once the program time-frame ends, the actual provisions remain in the zoning code and can only be removed through legislative amendment. Formal amortization programs are not normally incorporated into modern zoning codes and ordinances for these reasons. Gilbert, Mesa, Tempe, and Chandler have eliminated them from their codes. If Maricopa wishes to have a formal program,

one suggestion is to have the City Council create the program but not codify it. Eliminating uses entails the coordination of several city agencies – a policy program can be established that outlines the parameters and regulations and proscribe responsibilities to the appropriate agencies. Lastly, Maricopa has strong nuisance regulations in Chapter 10 of the City Code, Offenses. We have included a section titled “Abatement” that allows the City to enforce a use that becomes a public nuisance. With these provisions in place, Maricopa will be able to effectively reduce and limit those uses that are incompatible with the remainder of the city.

OFF-STREET PARKING

The off-street parking and loading regulations establish standards for individual land uses and rules for parking area design. The number of spaces required generally match parking standards in peer cities, including Gilbert, Mesa, Phoenix, and Tempe. New ideas include requirements for pedestrian access through parking areas and provisions for reductions in the amount of parking required. Flexibility in meeting the parking requirements is provided by allowing off-site parking, valet parking, and reductions for parking for projects with special needs, such as senior housing or housing for those with disabilities. Standards for recreation vehicle (RV) parking and for motorcycle and bicycle parking also are included.

PERFORMANCE STANDARDS

Performance standards for noise, vibration, odors, heat and humidity and fire and explosive hazards are proposed. An acoustic study would be required if a project would cause noise limits to be exceeded and then noise attenuation measures could be set as conditions of approval based on the study’s findings.

Because ARS addresses standards for air quality and water quality, these need not be in the Code Rewrite. Similarly, federal regulations are sufficient for radioactivity, and electromagnetic interference related to telecommunications.

SIGNS

After incorporation, the City adopted sign regulations, which represent “best practices”, and no substantial changes are warranted for the Code Rewrite. However, stakeholders did raise the issue of A-frame signs and the seeming lack of effective controls, particularly in major transportation corridors. The proposed amendment to current regulations for Portable Signs would add additional restriction on maximum size (reducing the sign area), hours for display (restricting to hours of operation), prohibited locations (to keep the sign near the business and out of pedestrian walkways), and prohibited materials, and to establish enforcement authority for removal of unauthorized portable signs. This enforcement authority is modeled on what Queen Creek has adopted. The policy question is whether these amendments should be recommended as part of the Code Rewrite.

WIRELESS FACILITIES

The City also has adopted a telecommunications facilities ordinance, which will be incorporated into the Code Rewrite. They have been included in this Module without substantive changes.

POLICY QUESTIONS

In Module 3 we have incorporated best practices of jurisdictions in adjacent communities as well as throughout the country. While we welcome feedback and questions on all sections, there are a few items that we want to highlight. These are not all-inclusive, but can serve as a starting point for Task Force discussion on how the regulations applying in multiple districts should be structured and what topics should be included.

- A. **Design Guidelines.** Is the additional design guidance needed? Should these ideas be expressed as guidelines or as standards, with “shall” and “must” rather than should?
- B. **Green Building Program.**
 - 1. Is the proposed “tiered” approach to creating a Green Building Program appropriate and should it be included in the Code Rewrite? Alternatively, the Program could be deferred until the City adopts the International Green Building Code.
 - 2. Should the Green Building Program have mandatory requirements for Council-defined “covered projects” as well as development incentives which would be available for any qualifying development?
- C. **Adequate Public Facilities.**
 - 1. Should procedures and criteria for determining adequate public facilities be included in the Code Rewrite?
 - 2. If so, do the proposed regulations strike the right balance, and allow for needed flexibility?
- D. **Affordable Housing Density Bonus Program.** Are the proposed regulations appropriate, and the incentives sufficient, to encourage participation by developers who may be interested in providing affordable housing?
- E. **Landscaping.** Is the right mix of tree, shrub and ground-cover established? Should flexibility in design be available through an Alternative Landscape Plan? Should single-family lots be required to have hardscape or landscape in visible yards?
- F. **Lighting.** Are additional standards needed for the lighting regulations?
- G. **Off-street Parking.** Are the proposed standards and design requirements appropriate for Maricopa? Should flexibility for Alternative Parking Area Designs be provided to achieve environmental design and Green Building objectives?
- H. **Performance Standards.** Should noise standards and provisions for noise attenuation be included in the Code Rewrite? Are additional performance standards needed?
- I. **Amendment to Existing Sign Regulations.**
 - 1. Should the Code Rewrite include additional restriction and enforcement provisions for portable signs?
 - 2. Should a permit be required for portable signs?
 - 3. Should P&Z approval for Comp. Sign Plans be administratively approved?

400 Series Regulations Applying in Multiple Districts

Article 401 General Site Regulations

401.01 Purpose and Applicability

The purpose of this Article is to prescribe development and site regulations that apply, except where specifically stated, to development in all zoning districts. These standards shall be used in conjunction with the standards for each zoning district located in the 200 Series, Base Zoning District Regulations and 300 Series, Overlay District Regulations. In any case of conflict, the standards specific to a zoning district shall override these regulations.

401.02 Accessory Structures

A. Applicability.

1. The provisions of this Section apply to roofed structures, including but not limited to garages, carports, sheds, workshops, arbors, gazebos, pergolas, and covered patios, that are detached from and accessory to the main building on the site. These provisions also apply to open, unroofed structures such as decks and trellises, that are over six feet in height and that are detached from and accessory to the main building on the site.
2. When an accessory building or structure is attached to the main building, it shall be made structurally a part of and have a common wall or roof with the main building and shall comply in all respects with the requirements of this Code applicable to the main building and all other applicable codes. Allowed building projections into setbacks are stated in Section 401.03, Building Projections into Yards.
3. Where a Second Dwelling Unit is located over a detached garage, the entire structure shall be considered a main building, subject to the base district standards for main buildings. No portion of this building shall be closer to any lot line than is permitted for any other main building, except on an alley where the detached garage may be within the setback.

B. **Relation to Existing Structures.** A detached accessory building may only be constructed on a lot on which there is a permitted main building to which the accessory building is related. An accessory building on an adjacent lot under the same ownership is not allowed; the two lots must be merged. However, an accessory building may be constructed prior to a permitted main building and used for not more than one year in connection with the construction of the main building, provided that a permit is obtained for the entire project, including the accessory building, prior to the start of any construction.

C. **Location.** Accessory structures shall be located behind the front line of the primary structure

1. **Corner Lot.** On a corner lot, no detached accessory building shall be located so as to project beyond the required front yard or the exiting front line of the primary structure on any street frontage for lots less than 1 acre minimum.

2. **Through Lot.** On a through lot having frontage on two more or less parallel streets, no detached accessory building shall be located within one-fourth of the area of either street-facing property line.

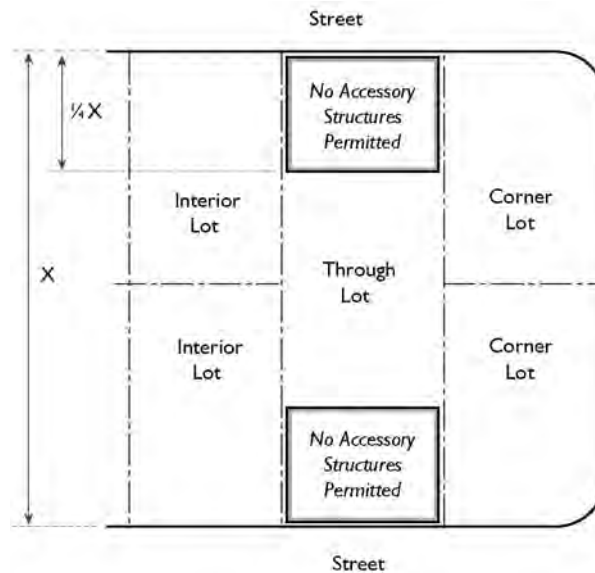


FIGURE 401.02.D.2: THROUGH LOT

- D. **Detached Garage Exception.** In Rural Districts, garages may be allowed on the front half of a lot if permitted by the development standards for the applicable zone.
- E. **Height.** Accessory structures with slab-type foundation shall be no greater than 15 feet high measured from adjacent grade. Additional height is allowed for Second Dwelling Units and guest quarters above garages, up to 25 feet with a pitched roof.
- F. **Setbacks.** Accessory structures may be located on an interior side or rear lot line, except as provided below:
 1. Accessory structures shall be setback a minimum of three feet from any alley or lot line.
 2. Accessory structures adjacent to the front one-half of any adjacent lot shall be setback a minimum of five feet from the lot line.
 3. Detached garages with a linear length or depth which exceeds 25 feet on a side shall be setback a minimum of five feet from the lot line.
 4. Accessory structures other than detached garages with a linear length or depth which exceeds one-third of the unobstructed distance along a property line shall be setback a minimum of five feet from the lot line.

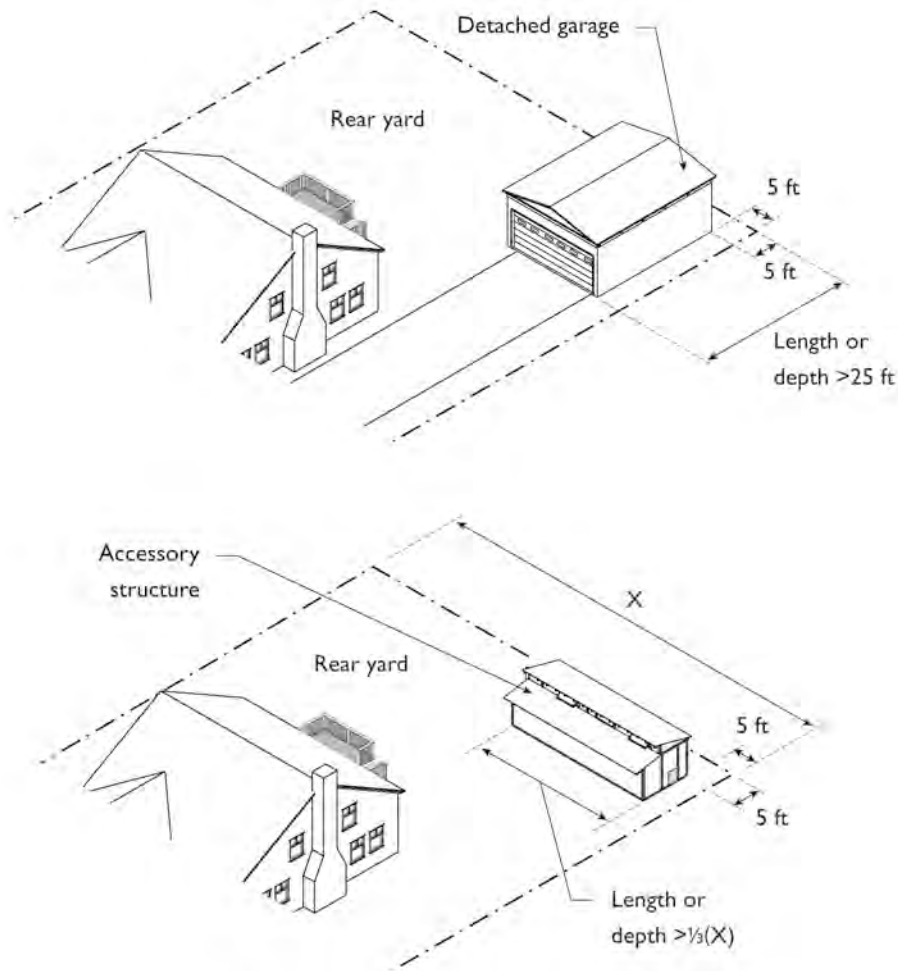


FIGURE 401.02.G: ACCESSORY STRUCTURE SETBACKS

- G. **Rear Yard Area.** Detached accessory structures shall not occupy more than 30 percent of the required rear yard area.
- H. **Separation from Main Buildings.** No detached accessory structure shall be located closer than six feet from the main building, inclusive of roof overhang.
- I. **Facilities.**
1. A detached accessory structure that has not been approved as a Second Dwelling Unit may contain bathroom facilities upon review and approval by the Director and the Building Official. The applicant shall obtain all necessary Building Permits for work to be performed. The applicant shall sign a statement, at the time of submittal for a Building Permit, which will prohibit the use of the accessory structure as a Second Dwelling Unit. The signed statement shall be in the form of a restrictive covenant, and shall be recorded.
 2. A detached accessory structure shall not have plumbing for separate housekeeping facilities, such as a kitchen or laundry facilities.

- J. **Permits.** Accessory structures greater than 120 square feet for residential structures and 200 square feet for commercial structures shall require Director approval and a building permit from the Building Division.
- K. **Factory-Built Modular Buildings.** Factory-built modular buildings designed, manufactured and attached to permanent foundations are permitted in all districts, provided that such buildings are installed in conformance with all applicable provisions of the Maricopa City Code.

401.03 Animal-Keeping

Animal-keeping is subject to the following standards in the Rural Districts:

- A. **Aviaries and Apiaries.**
1. Buildings or hives for apiaries may not be closer than 75 feet to any neighboring residence.
 2. Pens and structures for aviaries may not be closer than 40 feet to any neighboring residence.
- B. **Poultry, Bird, and Egg Farms.** Poultry, bird, and egg farms are subject to the following standards:
1. Pens, buildings, and enclosures other than open pasture may not be located closer than 200 feet to any residential, commercial, or employment district.
- C. **Livestock.** Commercial breeding, raising, training, and grazing of horses, cattle, sheep, goats, ostriches, swine and other livestock is subject to the following standards:
1. Sites must be at least 10 acres in area.
 2. Pens, buildings, corrals, and similar structures may not be closer than 200 feet to any residential, commercial, or industrial district.
- D. **Urban Chickens.**
1. The raising of chickens shall be subject to the following requirements, except for Rural Districts:
 - a. No more than five hens may be kept on an individual lot.
 - b. Roosters shall be prohibited.
 - c. Chicken coops shall not be closer than 10 feet from any property line abutting, adjoining or otherwise meeting the property line of another residential lot or parcel. No separation shall be required from a property line or portion of a property line abutting, adjoining or otherwise meeting the property line of an alley, right-of-way, or common open space. Said coops shall be subject to all applicable requirements for accessory buildings, including rear and side yard setbacks or a minimum setback of ten feet whichever is greater.

- E. **Horses.** The keeping of horses is allowed on lots that are at least one acre in size. Up to three horses are allowed on one acre, an additional horse is permitted for each 3,000 square feet of lot area above one acre, Stables shall be provided
- F. **Household Pets.** In all zones, a maximum of five dogs and five cats are allowed. These limitations do not apply to small animals kept with a residence, including fish, small birds, rodents, and reptiles. Dogs confined in kennels shall not be kept closer than 20 feet from the nearest residential structure on an adjacent lot.

401.04 Building Projections into Yards

Building projections may extend into required yards, subject to the following standards:

- A. No projection may extend closer than two feet to an interior lot line or into a public utility easement and may not encroach over a public utility easement, drainage easement, or other restrictive easement.
- B. No air-conditioning unit, pool pump or similar mechanical equipment, or any building encroachment, other than roof overhangs or eaves, shall be permitted in any side yard required for vehicular access.
- C. Awnings, eaves, overhangs, or basement window wells may encroach up to three feet into any required yard.
- D. Vestibules, bay windows, nooks, chimneys, or similar wall projections with or without footings may encroach not more than three feet into any required front or rear yard and not more than two feet into any required side yard.
- E. Staircases may encroach up to 3.5 feet in height into any required front yard, and up to 10 feet horizontally into any required rear yard.
- F. Attached open porches, open patios, open carports or open balconies may encroach into a required rear yard, but shall not be closer than 15 feet to a rear property line. Such open structures may include window screens, knee walls, and other partial enclosures as specified in the Building Code for patio covers.

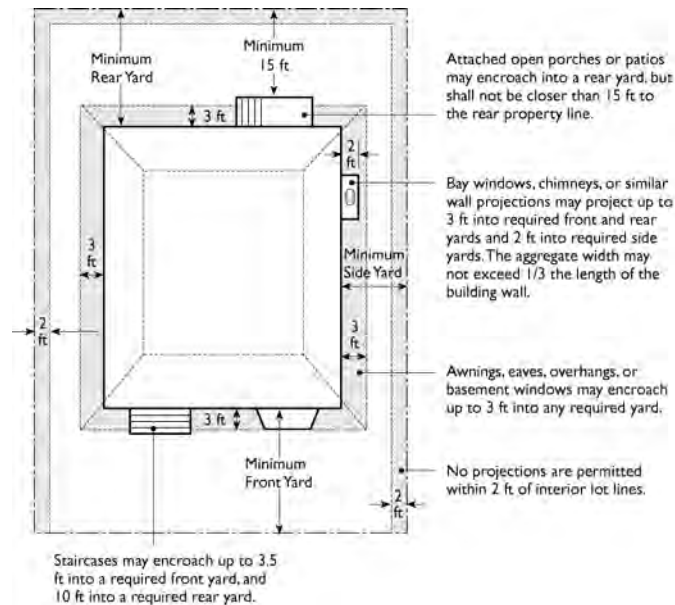


FIGURE 401.04: BUILDING PROJECTIONS

401.05 Construction Material and Waste Management Plan

To further the City's commitment to a Green Building Project for all projects over 10 acres, construction material and waste management plan shall be developed and implemented to recycle or salvage construction materials and waste. The Construction Material and Waste Management Plan shall include all of the following:

- A. The location for collection, separation and storage of recyclable construction waste shall be indicated.
- B. Materials to be diverted from disposal by efficient usage, recycling, reuse, manufacturer's reclamation, or salvage for future use, donation or sale shall be specified.
- C. The percentage of materials to be diverted shall be specified and shall be calculated by weight or volume, but not both.
- D. Documentation procedures related to diversion shall be described.

For the purposes of this Section, construction materials and waste shall include all materials delivered to the site and intended for installation prior to the issuance of the Certificate of Occupancy, including related packaging. Construction and waste materials shall not include land-clearing debris, excavated soils and fill and base materials. Documentation, including receipts, shall be maintained through the course of construction. Where requested by the building inspector, evidence of diversion shall be provided.

401.06 Development on Lots Divided by District Boundaries

- A. **Generally.** The regulations applicable to each district shall be applied to the area within that district, and no use shall be located in a Zoning District in which it is not a permitted or conditionally permitted use, except in situations listed in Subsection (B) below. When

deemed appropriate, the applicant or City shall initiate a zone change to make the zoning district lines consistent with lot lines.

- B. **Exception.** If more than 60 percent of the lot is in one Zoning District; the Hearing Officer may grant exceptions to Subsection A, above, based on consideration of the proposed use of the lot, and the existing uses on surrounding lots. Such an exception shall be considered through the Minor (Administrative) Use Permit process.

401.07 Development on Substandard Lots

Any lot or parcel of land under one ownership and of record on the day of incorporation of the City, may be used as a building site even when of less area or width than that required by the regulations for the Zoning District in which it is located. Such lot or parcel shall be subject to the setbacks and all other regulations applying to standard-size lots in zoning district where the lot or parcel is located unless a variance or waiver has been approved.

401.08 Exceptions to Height Limits

- A. **Allowed Projections above Height Limits.** The structures listed in Table 401.08 may exceed the maximum permitted building height for the district in which they are located, subject to the limitations stated in the table, and further provided that no portion of a structure in excess of the building height limit may be used for sleeping quarters or advertising.

TABLE 401.08.A: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS		
<i>Structures Allowed Above the Height Limit</i>	<i>Maximum Coverage, Locational Restrictions</i>	<i>Maximum Vertical Projection Above the Height Limit (ft)</i>
Skylights	No limitation	1 foot
Solar panels	No limitation	3 feet
Other energy production facilities located on rooftop	No limitation	5 feet
- Chimneys - Decorative features such as domes, cupolas, pediments, obelisks, and monuments - Rooftop open space features such as sunshade and windscreen devices, open trellises, and landscaping	10% of roof area	20% of base height limit or 10 feet
Elevator and stair towers (for multi-family and non-residential buildings only)	Shall be setback at least to the height of the pole from all lot lines; only one per residential lot	12 feet
Mechanical penthouses	60% of roof area	10 feet
Flagpoles	N/A	10 feet
Fire escapes, catwalks, and open railings required by law	No restriction	No restriction
Religious architectural elements such as spires, bell towers, and domes	10% of roof area	20 feet
Parapets	N/A	4 feet
- Distribution and transmission towers, lines, and poles - Water tanks - Windmills	20% of the area of the lot, or 20% of the roof area of all on-site structures,	10 feet as an accessory structure; none as a primary use

TABLE 401.08.A: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS		
<i>Structures Allowed Above the Height Limit</i>	<i>Maximum Coverage, Locational Restrictions</i>	<i>Maximum Vertical Projection Above the Height Limit (ft)</i>
- Airway beacons	whichever is less; no limit if a primary use permitted in the district	
- Building-mounted telecommunications facilities, antennas, and microwave equipment - Radio towers	Subject to provisions of Article 413, Telecommunications Facilities. A Conditional Use Permit is required for commercial communication towers that exceed the maximum permitted height of the district in which they are located.	

401.09 Fences and Freestanding Walls

Fences, freestanding walls, dense hedges, and similar structures shall comply with the standards of this Section.

A. Maximum Height.

1. **Front Yards and Streetside Yards.** No fence or freestanding wall within or along the exterior boundary of the required front or streetside yard shall exceed a height of three feet six inches. Visually transparent and non-opaque fences over three feet six inches high may be allowed in front and streetside yards, through modification by the Hearing Officer.
2. **Interior Side and Rear Yards.**
 - a. **Rural and Residential Districts.** No fence or freestanding wall within or along the exterior boundary of the required side or rear yards shall exceed a height of six feet.
 - b. **Commercial, Mixed-Use, and Industrial Districts.** No fence or freestanding wall within or along the exterior boundary of the required side or rear yards shall exceed a height of eight feet.
3. **Decorative Features.** One entry gateway, trellis, or other entry structure is permitted in the required front or street-facing side yard of each lot, provided that the maximum height or width of the structure does not exceed 10 feet. Such decorative feature shall not have any solid obstruction that exceeds two feet in diameter between the height of three and 10 feet.

B. **Prohibited Materials.** The use of barbed wire, razor wire, embedded glass shards, ultra barrier, electrified and other hazardous fencing is prohibited. Chain link fencing may only be used when not visible from off-site.

C. **Visibility at Intersections.** Notwithstanding any other provisions of this section, fences and walls shall comply with the standards of Section 401.15, Visibility at Intersections.

D. **Corner Lots.** Fences shall be a maximum of three feet in height within the sight distance triangle, unless a waiver is obtained from the Hearing Officer. Trees or any portion thereof that are located within the street triangle shall have clearance from two to seven feet as

measured from the top of the curb or sidewalk. In the event that the rear property line of a corner lot abuts a side property line of an adjoining key lot, a 10 foot deep by 20 foot wide visibility triangle shall be maintained over the corner lot, starting at the intersection of the rear and street side property lines of the corner lot.

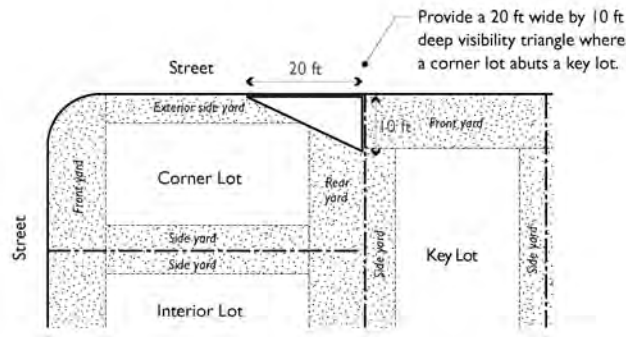


FIGURE 401.09.D: CORNER LOT ABUTTING A KEY LOT

- E. **Access for Public Utilities.** Where fencing blocks public utility easements, it shall be constructed so those portions required for access to the utilities can be removed.
- F. **Rural Districts.** “Corral fences” for the keeping of livestock may be placed within the required front yard in Rural Districts. Corral fences shall be constructed of masonry, wrought iron, pipe-rail, splitrail, or similar material, and shall maintain a minimum openness of 67 percent of the exterior surface of the fence. Corral fences shall not be constructed of metal wire, such as chain-link or barbed wire. Corral fences shall not exceed six feet in height.

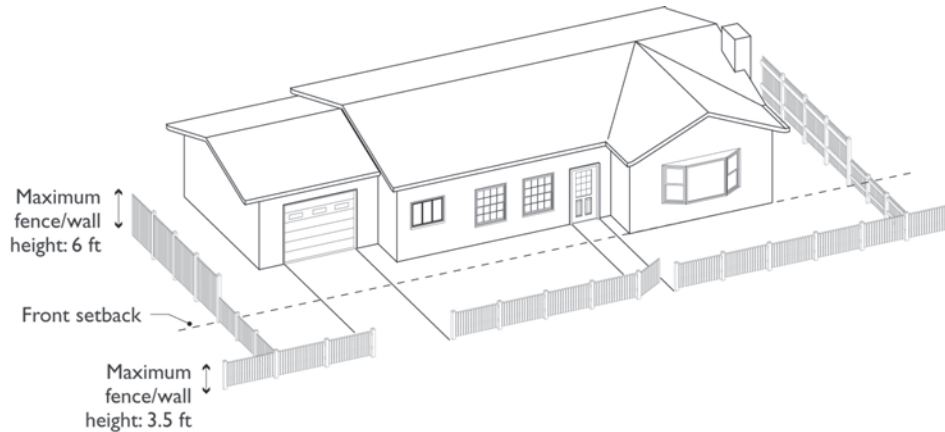


FIGURE 401.09.E: FENCES

- G. **Commercial, Mixed Use, and Industrial Districts:**
 - 1. **Exceptions to Height Limits.** A waiver of fence height may be granted by the Hearing Officer. The maximum height that is allowed with a fence height waiver is six feet in front or street side yards, and 12 feet in interior side or rear yards.

2. **Prohibited Materials.** Chain link fencing is not permitted in any street-facing yard in any district or in a location visible from off-site. In all employment districts, the use of barbed wire, razor wire, embedded glass shards, ultra barrier, electrified and other hazardous fencing is prohibited.

401.10 Outdoor Storage

Open storage of goods, materials, machines, equipment, and vehicles or parts outside of a building for more than 72 hours must conform to the standards of this Section. The regulations of this Section do not apply to temporary storage of construction materials reasonably required for construction work on the premises pursuant to a valid building permit.

- A. **Permitted Locations.** Table 401.10 states where outdoor storage is permitted.

TABLE 401.10: OPEN STORAGE REGULATIONS BY DISTRICT AND LOCATION	
<i>Base Districts</i>	<i>Permissibility of Open Storage</i>
Rural	Permitted if associated with a permitted agricultural use, located outside of all required setbacks, and screened subject to the standards of this section from adjacent residential properties and public rights-of-way.
Residential, Neighborhood Commercial, and Mixed-Use	All storage must be within an enclosed building except as specified for accessory outdoor display (garden centers, plant nurseries, lumber supply areas for home centers), subject to screening standards and to review and approval of a Special Use Permit
Industrial	Not permitted in front or street-facing side yards. Permitted in interior side and rear yards, or outside of required yards, subject to the standards of this section.
Public Facilities and Fleet Maintenance Yards	Not permitted in front or street-facing side yards. Permitted in interior side and rear yards, or outside of required yards, subject to the standards of this section.

- B. **Screening and Setbacks.** Storage areas visible from public streets that are not separated from the street by intervening building(s) shall be screened.
 1. **Screening Walls.** Screening walls and fences shall be at least eight feet in height. If located on a lot line or in a required yard, they shall not exceed the maximum allowable fence heights in required yards.
 2. **Setback.** A setback shall be provided for outdoor stored material at the ratio of 1:1 from all lot lines equal to total height of stored material above required screen wall. Minimum required yards visible from off-site and not enclosed by an 8' screen wall are required to be landscaped

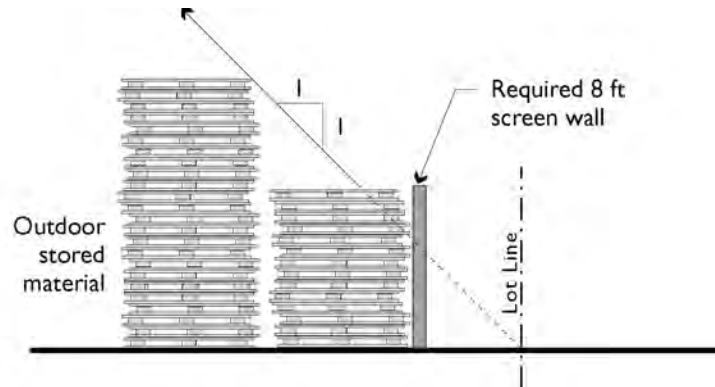
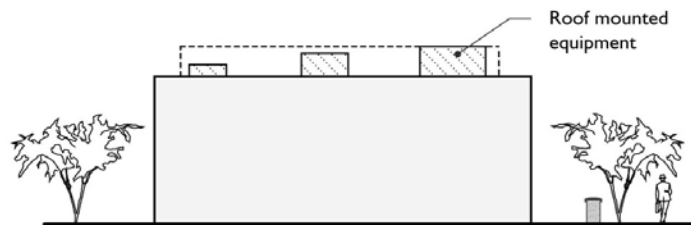


FIGURE 401.10.B: OUTDOOR STORED MATERIAL

401.11 Screening

- A. **Screening of Mechanical Equipment.** All exterior mechanical equipment, whether on a roof, on the side of a structure, or on the ground, shall be screened from public view. Exterior mechanical equipment to be screened includes, but is not limited to heating, ventilation, air conditioning, refrigeration equipment, plumbing lines, ductwork, transformers, satellite dishes, smoke exhaust fans, water meters, backflow preventers, service entry section and similar utility devices. Screening shall be architecturally integrated into the main structure with regard to materials, color, shape, and size to appear as an integral part of the building or structure. Equipment shall be screened on all sides. Screening materials shall be opaque. When screening with plants, evergreen types of vegetation shall be planted and maintained. Plant material sizes and types shall be selected and installed so that at the time of building occupancy such plants effectively screen their respective equipment. The use of wood, expanded metal lath, and chain link for the purpose of screening is prohibited. The following additional screening standards apply:

1. **Roof-Mounted Equipment.** Roof-mounted equipment screening shall be constructed as an encompassing monolithic unit, rather than as several individual screens (i.e., multiple equipment screens, or “hats,” surrounding individual elements shall not be permitted). The height of the screening element shall equal or exceed the height of the structure’s tallest piece of installed equipment.



Roof mounted equipment screening shall be an encompassing monolithic unit and shall be the same height as the equipment.

FIGURE 401.11.A.1: SCREENING OF ROOF-MOUNTED EQUIPMENT

2. **Ground-Mounted Equipment.** Ground-mounted equipment such as water meters, backflow preventers, and transformers that faces a street or is not separated from the street by intervening building(s) shall be screened to a height of 12 inches above the equipment. Screening devices shall consist of decorative walls and/or berms (2:1 maximum slope) with supplemental plant materials including trees, shrubs and groundcovers. For screen walls that are three feet height or lower, vegetative materials may be substituted for 50 percent of the screening device.



FIGURE 401.11.A.2: SCREENING OF GROUND-MOUNTED EQUIPMENT

3. **Exterior Wall Equipment.** Wall-mounted equipment, including but not limited to electrical meters, electrical distribution cabinets, service entry sections, fire sprinkler equipment and similar valves and cabinets that face a street, public parking and are not recessed and/or separated from the street by intervening building(s) shall be screened. Screening devices shall incorporate elements of the building design, e.g. shape, color, texture and material. For screen walls that are three feet in height or lower, vegetative materials may be substituted for 50 percent of the screening device.
 4. **Upgrades to Existing Mechanical Equipment.** The Director may waive screening requirements for upgrades to existing mechanical equipment for good cause.
- B. **Truck Docks, Loading, and Service Areas.** Truck docks, loading, delivery and service bays shall be screened according to the standards of Section 401.13 and Article 409.
 - C. **Roof Access Ladders and Fire Sprinkler Risers.** Roof access ladders and fire sprinkler risers shall be located internally.
 - D. **Trash and Refuse Collection Areas.** Latching view obscuring gates shall be provided to screen trash enclosure openings where visible from street and/or public parking areas. The trash enclosure shall match and compliment the color scheme and architecture of the building.
 - E. **Parking Areas.** Parking areas and drive aisles shall be screened from street(s) with a combination of masonry (or similar material, such as gabien walls) and/or berms with supplemental shrubs and ground covers.
1. The screening device shall vary in height from 32 to 40 inches and shall be offset or staggered in plan by at least 24 inches at intervals of no more than 20 feet or include a mixture of live and solid walls.

2. The screening device shall vary in height from 12 to 18 inches when lawful display of automobiles, trucks, recreational vehicles, manufactured homes, boats, motorcycles, and utility trailers are adjacent to public streets.
 3. Screen wall and/or berm height shall be measured from the finish grade of the parking lot.
 4. A setback of at least five feet shall be provided between the screen wall and the edge of the parking area.
 5. A setback of at least 10 feet shall be provided between the screen wall and the right of way.
- F. **Common Lot Lines.** A screening wall shall be provided on the interior lot lines of any lot that contains any commercial use, industrial use, public or semi-public use (except Cemetery or Public Park and Recreation Facility), or transportation, communication and utilities use, and abuts a Residential District or residential use. Such screening wall shall be provided at the time of new construction or expansion of buildings, or changes from one use classification to another non-residential use classification.
1. **Location.** Screening walls shall follow the lot line of the lot to be screened, or shall be so arranged within the boundaries of the lot so as to substantially hide from adjoining lots the building, facility, or activity required to be screened.
 2. **Materials.** Industrial uses must provide a solid screening wall of stucco, decorative block, or concrete panel. Screening walls for other uses may be constructed of stucco, decorative block, concrete panel, wood or other substantially equivalent material. Chain-link fencing does not fulfill the screening wall requirement.
 3. **Berms.** An earth berm may be used in combination with the above types of screening walls, but not more than two-thirds of the required height of such screening may be provided by the berm.
 4. **Relationship to Fence and Wall Height Limits.** If the minimum required screening wall height exceeds the maximum permitted height of fences and freestanding walls for the zoning district, then a screening wall shall be provided that conforms with the maximum permitted fence height in the applicable portion of the property.
- G. **Screening Along Residential District Boundaries.** A screening wall six feet in height is required wherever a site located in a commercial or mixed-use district abuts a residential district. The Zoning Administrator may require additional screening elements up to 8' if necessary to properly screen commercial uses.
- H. **Screening and Separation of Parking Areas.** Parking areas located between a building and street shall be screened with a screening wall or berm at least 3.5 feet high.. In addition, parking areas shall be separated from on-site buildings by a distance of at least 10 feet, which shall be landscaped and may also include a pedestrian walkway.

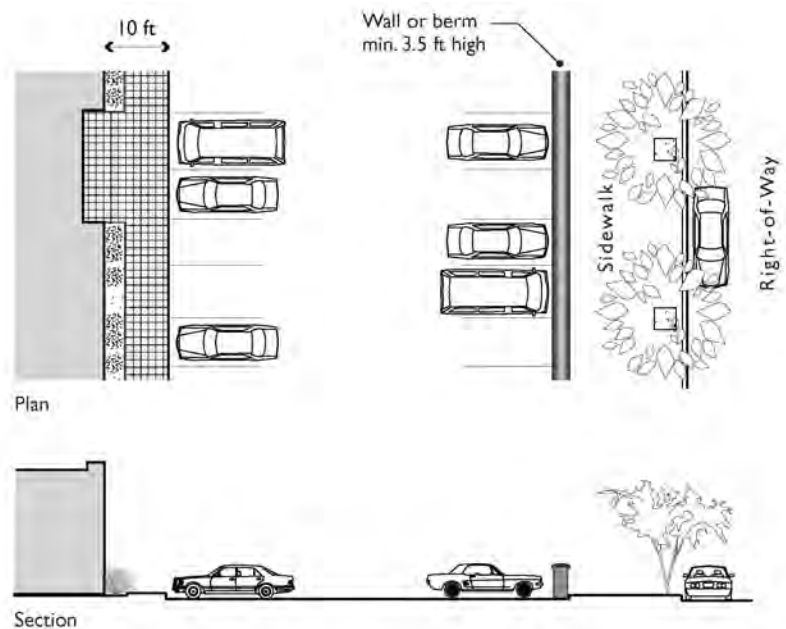


FIGURE 401.11.H: SCREENING AND SEPARATION OF PARKING AREAS

401.12 Swimming Pools and Spas

- A. Swimming pools and spas located in any Zoning District must be developed in compliance with the following standards:
1. If located in a Rural or Residential District, the swimming pool or spa is to be solely for the use and enjoyment of residents and their guests, unless it is associated with a Golf Course or Resort.
 2. **Filtration Equipment.** Swimming pool or spa filtration equipment and pumps shall not be located in the front or street side yard and shall not be closer than 15 feet to the main building on an adjoining lot. All equipment shall be mounted and enclosed so that its sound is in compliance with Section 410, Performance Standards.
 3. **Pool Setbacks:** Pool setbacks from water edge to lot perimeter barrier/fence shall be a minimum of three feet from water's edge to patio slab a minimum of 30 inches and/or from water's edge to building wall structure, a minimum of five feet.
 4. **Enclosure.** Swimming pools or other contained body of water shall be entirely enclosed and have at least a five foot wall, fence or other barrier as measured on the exterior side of the wall, fence or barrier. The wall, fence or barrier shall be at least 36 inches from the water's edge.
 - a. The enclosure shall have no openings in the wall, fence or barrier through which a spherical object four inches in diameter can pass. The horizontal components of any wall, fence or barrier shall be spaced not less than 45 inches apart measured vertically or shall be placed on the pool side of a wall, fence or barrier which shall not have any opening greater than $1 \frac{3}{4}$

inches measured horizontally. Wire mesh or chain link fences shall have a maximum mesh size of one and three quarter inches measured horizontally.

- b. The wall, fence or barrier shall not contain openings, handholds or footholds accessible from the exterior side of the enclosure that can be used to climb the wall, fence or barrier.
5. **Gates.** Gates for the enclosure shall:
- a. Be self closing and self latching on the pool side of the gate with a release mechanism at least five inches below the top of the gate and no opening greater than 1/2 inch within 24 inches of the release mechanism; all other gates shall be secured by a padlock or similar device which requires a key, electric opener or integral combination which can have the latch at any height.
 - b. Open outward from the pool.
6. If a residence or living area constitutes part of the enclosure required for a swimming pool or other contained body of water in lieu of the requirements above, there shall be one of the following:
- a. Between the swimming pool or other contained body of water and the residence or living area, a minimum 5 foot wall, fence or barrier to the pool area which meets all of the requirements of this Section and shall not obstruct the view of the pool.
 - b. The pool shall be protected by a motorized safety pool cover which requires the operation of a key switch which meets the American society of testing and materials emergency standards 13 89 and which does not require manual operation other than the use of the key switch.
 - c. All ground level doors or other doors with direct access to the swimming pool or other contained body of water shall be equipped with a self-latching device which meets the requirements of subsection 5 above or shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(s) shall be located at least 54 inches (1372 mm) above the threshold of the door. Emergency escape or rescue windows from sleeping rooms with access to the swimming pool or other contained body of water shall be equipped with a latching device not less than 54 inches above the floor. All other openable dwelling unit or guest room windows with similar access shall be equipped with a screwed in place wire mesh screen, or a keyed lock that prevents opening the window more than four inches, or a latching device located not less than 54 inches above the floor.

- d. The swimming pool shall be an aboveground swimming pool which has non climbable exterior sides which are a minimum height of four feet. Any access ladder or steps shall be removable without tools and secured in an inaccessible position with a latching device not less than 54 inches above the ground when the pool is not in use.

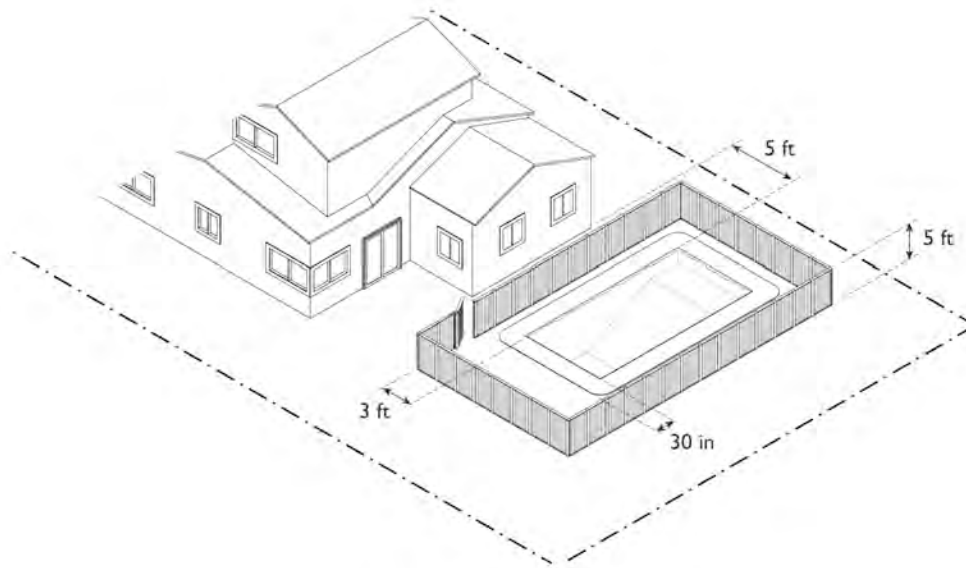


FIGURE 401.12.A.3: POOL SETBACKS

401.13 Truck Docks, Loading, and Service Areas

Truck docks, loading, and service areas shall be located and screened as follows:

- A. **Minimum Distance from Residential District.** Truck docks, loading, and service areas are not permitted within 50 feet of the boundary of any Residential District or use.
- B. **Location on Lot.** In all districts except the Industrial Districts, truck docks, loading areas, and service areas must be located at the rear or side of buildings, rather than facing a street
- C. **Screening.** Truck docks, loading areas, and service areas located in any Zoning District shall be screened from any adjacent Residential Districts or uses. Docks, loading, and service areas in any district except the Industrial Districts shall be screened from view of adjacent streets. Screening shall consist of a solid masonry wall at least eight feet in height or opaque automated gates.

401.14 Underground Utilities

All electrical, telephone, cable television, and similar distribution lines providing direct service to a project shall be installed underground within the site. This requirement may be waived by the Hearing Officer upon determining that underground installation is infeasible.

401.15 Visibility at Intersections and Driveways

Notwithstanding any other provisions of this Section, no fence, wall, shrubbery, sign, or other obstruction to vision between a height of two feet and seven feet above the centerline grades of the intersecting streets shall be erected, placed, planted, allowed to grow, or maintained within the

triangular yard space formed by the intersecting center lines and a line joining points on such center lines 80 feet from the point of intersection.

Article 402 Design Guidelines

402.01 Residential Design Guidelines

- A. The Guidelines of this Section apply to all Residential buildings in the Rural and Residential Districts in order to support a high level of design.
- B. **Building Form.**

1. ***Garage Frontage and Location.***

- a. Where garage doors face a street, garage width should not exceed 50 percent of the width of the front façade of the building. The 50 percent limitation may only be exceeded if living area or architectural features that are forward of the garage plane are provided.
- b. Garages should be located at least five feet behind the primary wall facing the street, and never less than the required yard.
- c. Garages with three or more doors, or designed to accommodate three or more non-tandem parked cars, shall have at least one garage front separated or offset from the remaining garage fronts by at least two feet.

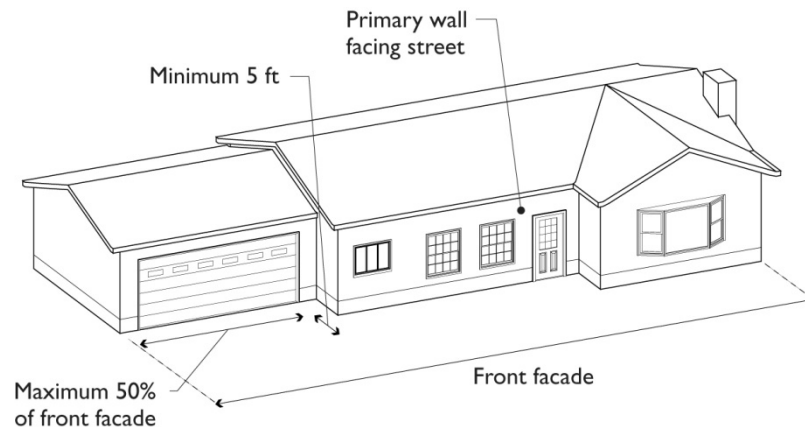
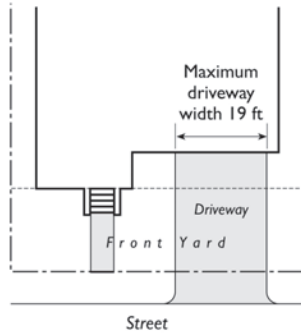


FIGURE 402.01.B.1: GARAGE FRONTAGE AND LOCATION

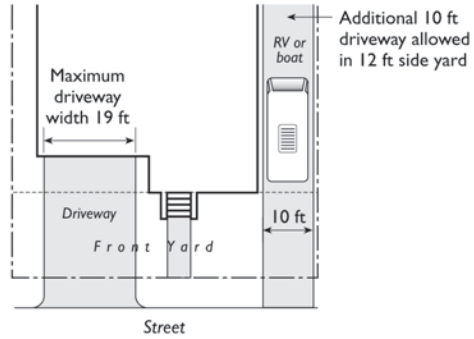
C. **Driveways—Maximum Number, Width, and Depth.**

1. The minimum depth shall be 18 feet from the back of the sidewalk or curb if there is no sidewalk.
2. For lots less than 85 feet wide, a maximum of one driveway up to nineteen feet wide is permitted for required parking. One additional driveway up to 10 feet wide is permitted for a recreational vehicle, provided that it leads to an interior side yard at least 12 feet wide for storage of the recreational vehicle.
3. For lots greater than 85 feet wide or more, the combined width of all driveways may not exceed 28 feet.

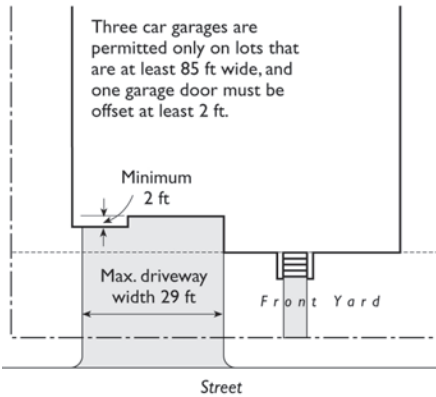
Lots < 85 ft wide



Lots < 85 ft wide



Lots > 85 ft wide



Lots > 85 ft wide

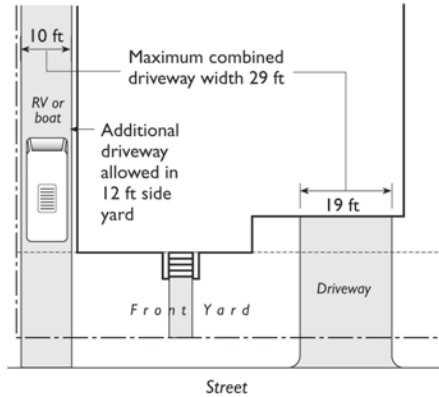


FIGURE 402.01.C: PARKING AND GARAGE FRONTAGE LIMITATION

4. **Parking and Garage Frontage Limitation.** The total frontage of parking areas visible from the street, including open parking, carports, and garages, but excluding underground parking and parking located behind buildings, should not exceed 30 percent of the lot frontage.
5. **Garage Doors.** Garage doors should be set back a minimum of five feet from the front façade of the building. Alternatively, garage doors located below upper-story living space should be recessed at least 3 feet from the upper story or six inches from the surrounding building wall.

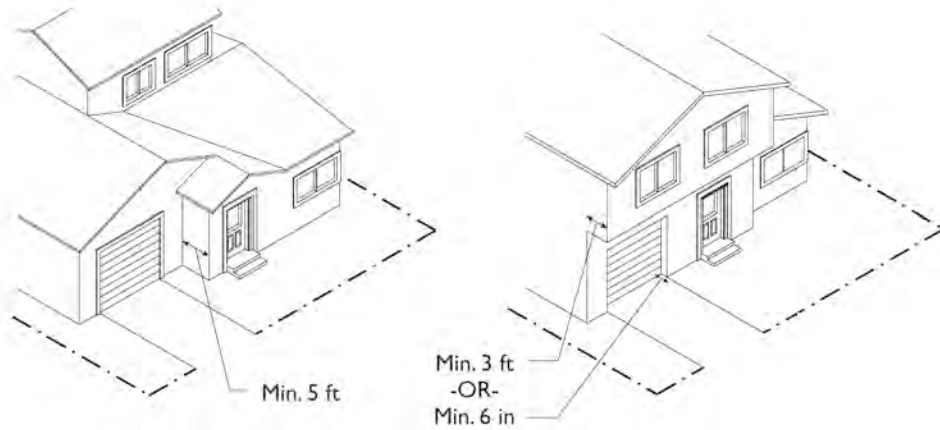


FIGURE 402.01.C.5: GARAGE DOORS

D. Design/Articulation

1. ***Two-story Dwellings on Corner Lots.*** Two-story dwellings located on corner lots should include windows on the façade facing the side street. No second-story street-facing wall should run in a continuous plane of more than 20 feet without a window or a projection, offset, or recess of the building wall at least one foot in depth.

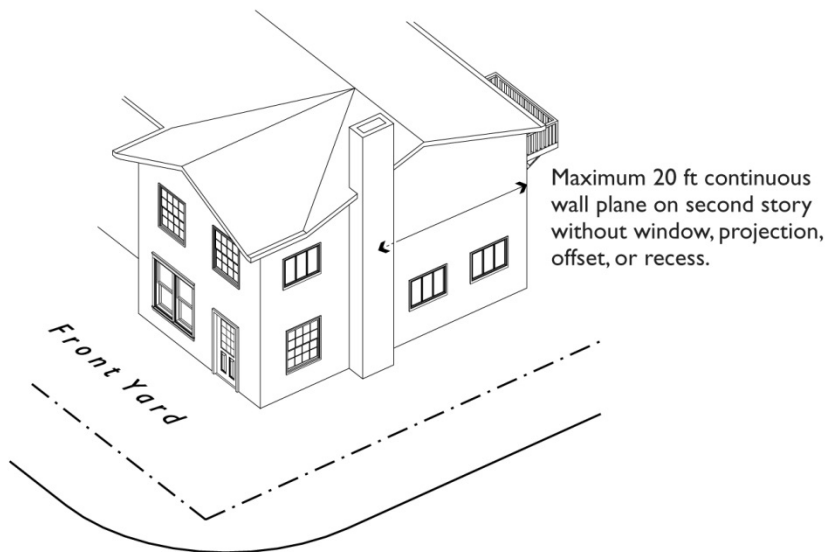


FIGURE 402.01.D.1: TWO DWELLINGS ON CORNER LOT

2. ***Building Entrances.***
 - a. ***Dwelling Unit Access.*** Exterior entrances to units should be in the form of individual or shared entrances at the ground floor of the building. Unit entrances located above the ground floor are also permitted; however, no exterior access corridor located above the ground floor may provide access to five or more units.

- b. *Orientation.* All units located along public rights-of-way should have the primary building entrance facing this right-of-way. Exceptions to this requirement may be approved for projects where multiple-family housing is located on four-lane streets carrying high traffic volumes. In such cases, the project may be oriented around courtyards.
- c. *Projection or Recess.* Building entrances should have a roofed projection (such as a porch) or recess with a minimum depth of at least five feet and minimum horizontal area of 50 square feet. This requirement may be waived by the Hearing Officer if alternative entry enhancements are provided.

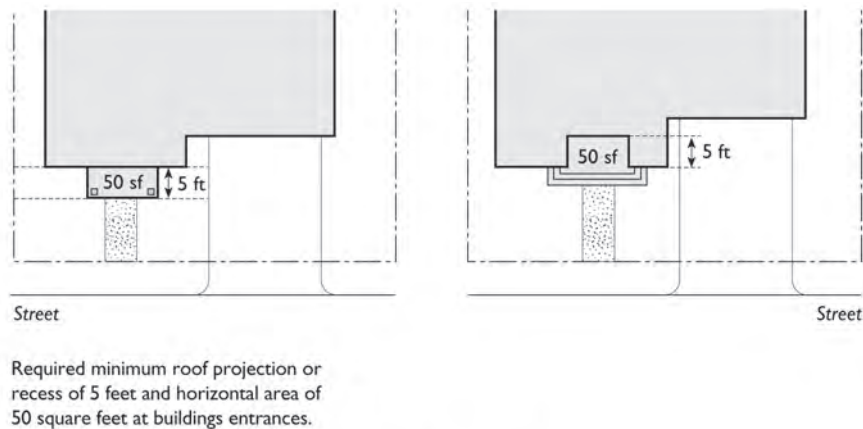


FIGURE 402.02.D.2: BUILDING ENTRANCE PROJECTION OF RECESS

- d. *On-Site Management Offices.* Offices for leasing or management shall be oriented toward the front property line and shall be accessible by a defined pedestrian path from the street.
3. ***Architectural Articulation in Multi-family Buildings.*** Multiple-family residential buildings should include adequate design features to create visual variety and avoid a large-scale and bulky appearance. Long facades should be broken up into smaller modules. This requirement can be met by using a minimum of two or more of the following methods.
- a. *Facade Articulation.* All street-facing facades have at least one horizontal or vertical projection or recess at least four feet in depth, or two projections or recesses at least 2.5 feet in depth, for every 25 horizontal feet of wall. If located on a building with two or more stories, the articulated elements should be greater than one story in height, and may be grouped rather than evenly spaced in 25-foot modules. Building entrances and front porches and projections into required yards such as stoops, bays, overhangs, fireplaces, and trellises count towards this requirement.
 - b. *Variable Roof Form.* Variable roof forms are incorporated into the building design, and no more than two side-by-side units may be covered by one unarticulated roof. Articulations may be accomplished by changing roof

height, offsets, and direction of slope, and by introducing elements such as dormers, towers, or parapets.

- c. *Use of Balconies, Bay Windows, and Other Such Projections or Recesses.* The building incorporates balconies, bay windows, entry porches or other projections and recesses in a pattern that creates architectural interest across the length of the façade.

402.02 Commercial and Mixed Use Design Guidelines

- A. **Architectural Articulation.** The Guidelines of this Section apply to the Commercial and Mixed Use Districts in order to support pedestrian-oriented development. The decision-making authority may approve or conditionally approve a Use Permit or a Development Review Permit only if it finds that buildings include adequate design features to create architectural interest and avoid a large-scale, bulky or “box-like” appearance. Large buildings should appear to be divided into smaller modules. Different ways that this finding may be met include but are not limited to those listed below.
 1. *Variety in Wall Plane.* Exterior building walls vary in depth and/or direction. Building walls exhibit offsets, recesses, or projections with significant depth, or a repeated pattern of offsets, recesses, or projections of smaller depth.
 2. *Variety in Height or Roof Forms.* Building height is varied so that a significant portion of the building has a noticeable change in height every 20 to 30 feet, for example; or roof forms are varied over different portions of the building through changes in pitch, plane, and orientation.
 3. *Façade Design Incorporates Architectural Detail.* The building façades incorporate details, such as window trim, window recesses, cornices, belt courses, changes in material on exterior elevations visible from the street, or other design elements, in an integrated composition. Architectural features of the front façade shall be incorporated into the rear and side elevations.
 4. *Balconies, Bay Windows, and other such Projections or Recesses.* The building incorporates balconies, bay windows, entry porches or other projections and recesses in a pattern that creates architectural interest across the length of the façade.
- B. **Ground-Floor Opacity.** Exterior walls facing any front or street-facing lot line should include windows, doors, or other openings for at least 50 percent of the building wall area located between 2.5 and seven feet above the elevation of the sidewalk. No wall may run in a continuous plane for more than 20 feet without an opening. Openings fulfilling this requirement should have glazing that provides views into work, display, sales, lobbies, or similar active spaces, or into window displays that are at least three feet deep.
 1. *Exception for Structured Parking Facilities.* Multi-level parking garages, where permitted, are not required to meet the ground-floor transparency requirement.
 2. *Sites with Multiple Buildings.* On sites that contain multiple buildings, the building ground-floor transparency requirement does not need to be met along street-facing facades of buildings that are located behind other buildings and not visible from the adjacent public street.

3. **Reduction through Development Review Permit.** The building opacity requirement may be reduced or waived by the Hearing Officer, if it is found that:
 - a. The proposed use has unique operational characteristics with which providing the required windows and openings is incompatible, such as in the case of a cinema or theater or side walls of a drug store; and
 - b. Street-facing building walls will exhibit architectural relief and detail, or will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

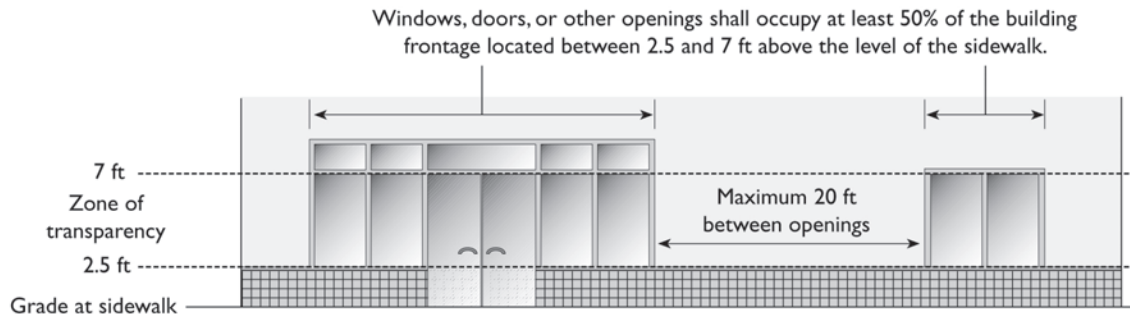


FIGURE 402.02.B.3: BUILDING TRANSPARENCY

- C. **Improvement of Street-Facing Setbacks.** Where a front or street-facing side setback is provided, it should be landscaped and/or hard surfaced for use by pedestrians. If hard surfaced, the setback area on each lot must contain at least two pedestrian amenities, such as benches, drinking fountains, and/or other design elements (public art, planters, and kiosks). These criteria also apply to small commercial plazas, which also must have a minimum horizontal dimensions 20 feet and be directly accessible from a sidewalk. Residential buildings are exempt from this requirement.

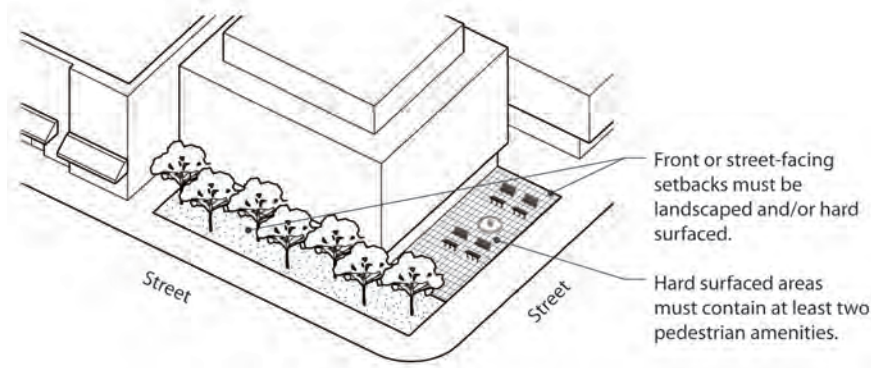


FIGURE 402.01.C: STREET-FACING SETBACKS

402.03 Shading of Sidewalks, Public and Private

All development directly abutting a public or private sidewalk or pedestrian way should provide structured shading. Shading should be provided for the entire length of the building. A minimum of

50 percent of the length of the building should be shaded with methods such as awnings and arcades. Canopies, awnings, porticoes, pedestrian arcades and similar shade-bearing features used to meet these requirements may be allowed to encroach in the City right-of-way, subject to an Encroachment Permit. The remaining sidewalk should be shaded with structures or other methods including landscaping. Shading should be positioned to shade the sidewalk from April 15th through September 30th. Where landscaping is used, trees should be a minimum 3-inch caliper at time of planting.

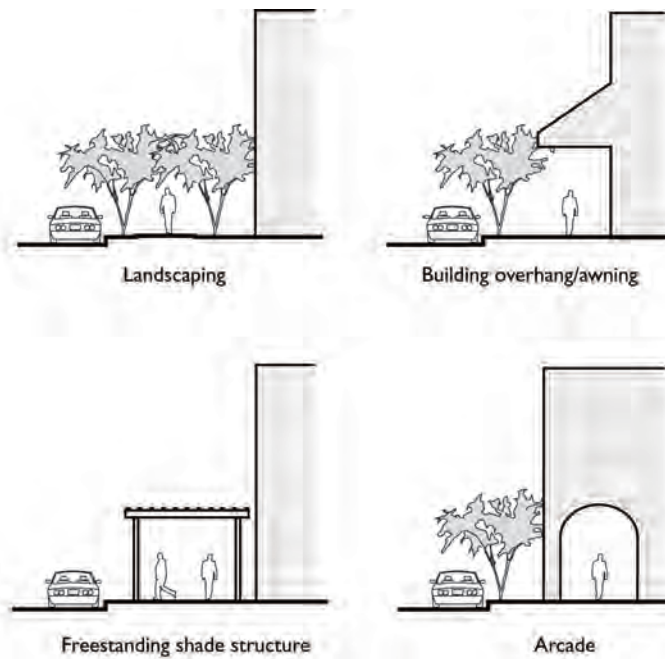


FIGURE 402.03: SHADING OF SIDEWALKS

Article 403 Green Building Program

403.01 Purpose.

The purpose of this Article is to enhance the public health and welfare and assure that commercial and residential development is consistent with its desire to create a more sustainable community by incorporating green building measures into the design, construction, and maintenance of buildings. The Green Building Provisions referred to in this Article are designed to achieve the following goals:

- A. Increase energy and water efficiency in buildings;
- B. Increase resource conservation;
- C. Provide durable buildings that are efficient and economical to own, operate, and maintain;
and
- D. Promote a healthier indoor environment.

403.02 Applicability.

This Article applies to all projects determined by the City Council to be “Covered Projects,” as defined in this Code, except that it does not apply to any project for which an application for a discretionary permit was submitted before the effective date of this Code. Covered Projects may include any project requiring a legislative action such as General Plan amendment or rezoning, an Planned Area Development, and any major subdivision exceeding 500 units plus, and other projects as identified by the City Council in establishing Standards for Compliance, pursuant to Section 402.03.¹ For all other projects, this Program is voluntary.

403.03 Standards for Compliance.

The City Council may establish by resolution, and periodically review and update as necessary, *Green Building Standards and Standards for Compliance* with this Green Building Program. The Standards for Compliance may be approved after recommendation from the Director, who must refer the Standards for recommendation to the Planning & Zoning Commission, before Council action. The Standards for Compliance must include, without limitation, the following:

- A. The types of projects subject to regulation (Covered Projects);
- B. Minimum thresholds of compliance for Covered Projects;
- C. Incentives to encourage green building for covered Projects above the minimum thresholds;
- D. Incentives to encourage green building for Non-Covered Projects above existing regulations;
and
- E. The green building rating system to be applied to the various types of projects which voluntarily pursue incentives.

403.04 Incentives for Compliance.

In addition to the required *Standards for Compliance*, the City Council may, through resolution, enact financial, structural (permit review process), or other incentives such as technical and marketing

¹ Optional: Covered Projects can also include public facilities over 20,000 square feet and larger commercial developments.

assistance (award or recognition programs) to further encourage voluntary green building practices for Covered and Non-Covered Projects beyond existing regulations.

403.05 Development Bonuses

This program may be too advanced for the City at this time. An alternative would be to list features that might just incentives, such as reduced fees or increased sign height, or tradeoffs (more landscaping and greater setbacks may justify more height in the interior of a lot.

- A. **Procedure.** Bonus floor area ratio, height, and/or residential density may be permitted, up to the maximum bonus amount specified for the applicable Zoning District(s) for the covered project site through approval of a Conditional Use Permit.
- B. Green Building Components, as specified in this Section, must be provided sufficient to earn the number of points required for the bonus amount requested, pursuant to subsections (B) and (C) below.
- C. For bonus height over 35 feet, Green Building Benefits as specified in this Section must be provided sufficient to earn at least 100 points pursuant to subsection (B) below. To qualify for a bonus, a Green Building Benefit must be significant and clearly beyond what would otherwise be required for the project under applicable code provisions or conditions of approval.
- D. **Determination of Bonuses.** Bonus floor area ratio, height, and/or residential density shall be calculated in accordance with the following procedures.
- E. **Bonus Amount.** The bonus amount is based on the number of points, up to a maximum of 100, attained through the provision of Green Building Benefits pursuant to subsection (C) of this Section. The bonus amount is calculated according to the following formula:

Total Number of Points

$$100 \times \text{Bonus Increment} = \text{Bonus Amount}$$

Variables used in bonus amount calculation:

- 1. **Total Number of Points.** The sum of the points awarded for the provision of Green Building benefits pursuant to subsection (C) of this Section, up to a maximum of 100.
 - 2. **Bonus Increment.** The difference between the maximum bonus amount and the maximum base amount for FAR, height, and residential density as specified in the base zoning district development standards tables.
- F. **Maximum Allowable FAR, Height, and Residential Density.** The maximum FAR, height, and residential density allowable is the sum of the base amount, as specified in the base zoning district development standards tables, and the bonus amount calculated pursuant to subsection (B)(1) of this Section.
- 1. **Points Count Towards All Bonuses.** Development bonuses pursuant to this Article are in addition to any density bonuses for affordable housing. The points awarded for the provision of Green Building Benefits pursuant to subsection (C) of this Section may be counted towards FAR, height, and residential density. It is not necessary to earn separate points for each of these bonuses.

- G. **Exceptional Circumstances.** The above provisions notwithstanding, in exceptional circumstances the Planning & Zoning Commission or City Council, as the case may be, may determine that one or more Green Building Benefits are sufficient to warrant the granting of all or part of the full bonus.
- H. **Green Building Components, Maximum Points, and Method of Calculation.** The components of the Green Building Program, the maximum number of points that may be awarded for each component, the calculation method, and other requirements are as shown in Table 403.05.C:

TABLE 403.05.H: GREEN BUILDING PROGRAM		
<i>Green Building Components (Benefits) and Requirements</i>	<i>Max Points</i>	<i>Point Calculation</i>
Sustainable Design		
LEED™ or Equivalent Third-Party Certification , as approved by the City. Compliance of schematic building design to be confirmed by Building Official prior to permit approval; certification required prior to issuance of a certificate of occupancy.	35	LEED™ Platinum or equivalent: 35 points LEED™ Gold or equivalent: 25 LEED™ Silver or equivalent: 10
Alternative Energy		
A minimum of 20 percent of total building energy load, measured as kilowatts per square foot, is provided by solar panels, wind turbines or other renewable sources, on-site or off-site through Renewable Energy Credits or other long-term contracts. See Section 610 of International Green Building Code	50	100% of energy load (zero net energy): 50 points 50% of energy load: 35 25% of energy load: 15
Energy Efficiency		
Superior energy efficiency for commercial or multi-family or mixed use buildings based on percent by which energy efficiency exceeds standards of the International Energy Conservation Code, as adopted by the City.	25	20%: 25 points 10%: 15 points
Landscape Irrigation		
Outdoor landscape irrigation systems designed to reduce potable water use by a percentage above the minimum established in the International Green Building Code, determined from a calculated mid-summer baseline or the system shall be supplied with alternate onsite non-potable water.	20	75% reduction: 20 points 60% reduction: 10
Transportation Connections and Alternate Modes		
Walkways and Bicycle Paths. Not less than one independent, paved walkway or bicycle path suitable for bicycles, strollers, pedestrians, and other forms of non-motorized locomotion connecting a street or other path to a building entrance is provided. Walkways and bicycle paths connect to existing paths or sidewalks, and are designed to connect to any planned future paths.	10	All feasible connections are provided.
Preferred Vehicle parking—High Occupancy Vehicles (HOV) Parking and Low-Emission, Hybrid, and Electric Vehicle Parking. Where building floor area is equal to or greater than 10,000 sq. ft., at least 5 percent, but not less than two, of the parking spaces provided are designated as preferred parking for	10	One type of Preferred Vehicle: 5 points Both types of Preferred Vehicles: 10

TABLE 403.05.H: GREEN BUILDING PROGRAM		
<i>Green Building Components (Benefits) and Requirements</i>	<i>Max Points</i>	<i>Point Calculation</i>
high occupancy vehicles or low emission, hybrid, and electric vehicles.		
Heat Island Mitigation		
Site Hardscape. Not less than 50 percent of site hardscape is 1) hardscape materials with an initial solar reflectance value of not less than 0.30; 2) shading structures; 3) shading by trees; or 4) pervious paving, open-grid pavers, and/or open-graded aggregate (stabilized decomposed granite). Reference: Section 408 of the International Green Building Code	10	60 % of hardscape meets standard: 10 points 55% of hardscape meets standard: 5
Roof Coverings. Not less than 75 percent of roof surfaces of buildings and covered parking shall meet a minimum solar reflectance/thermal emittance standard specified by the city or be a vegetative roof. Reference: Section 408 of the International Green Building Code	10	80% of roof covering meets standard: 10 points

403.06 Administrative Procedures and Promulgation of Implementing Regulations.

- A. **Compliance Required.** All Covered projects must comply with the City's administrative policies and procedures regulating the Green Building Program. All projects electing to pursue incentives and using third party standards must comply with the City's administrative policies and procedures regulating the Incentives for Compliance of this Article.
- B. **Administrative Policies and Procedures.** The Hearing Officer, or designee, is authorized to promulgate administrative policies and procedures needed to achieve compliance with the Green Building Program and requirements to receive incentives. Such administrative policies and procedures must, at a minimum, provide for the incorporation of Green Building requirements into checklist submittals with planning entitlement and building permit applications, and supporting design, construction, or development documents to demonstrate compliance with the Green Building requirements and requirements to receive incentives.
- C. **Costs to Applicant.** All costs for inspections, documentation and verification of compliance with green building requirements, including commissioning agents or certified performance contractors, must be borne by the applicant.
- D. **Documentation.** The procedures for compliance documentation must include, without limitation, the following:
 1. ***Discretionary Permit for Covered Projects and Projects Electing to Pursue Incentives and Using Third Party Standards.*** Upon submittal of an application for any discretionary planning entitlement for any Covered Project including, without limitation, Use Permits, Development Review Permits, General Plan Amendments, Rezonings, PAD Plans and major subdivisions, or submittal of an application for any projects electing to pursue incentives, application materials must include the appropriate completed checklists, as required by the City's Standards for

Compliance, accompanied by a text description of the proposed green building practices and expected measures and milestones for compliance.

2. ***Building Plan Check Review.*** Upon submittal of an application for a building permit, building plans for any Covered Project must identify the mandatory green building measures as approved under the discretionary permit, and an index to the location of those measures on the plans, reflecting any changes proposed since the planning entitlement phase. For those projects electing to pursue incentives and using third party standards, upon submittal for an application for a building permit, building plans must include a checklist and green building practice description, reflecting any changes proposed since the planning entitlement phase. The checklist must be incorporated onto a separate plan sheet included with the building plans. For any project electing to pursue incentives and using third party standards, a qualified green building professional must provide evidence of adequate green building compliance or documentation for the design phase to the Director before the City issues a building permit.
- E. **Final Building Inspection, Verification, and Occupancy.** Before final building inspection and Certificate of Occupancy for any Covered Project, documentation must be provided to the Director to satisfy the requirements of the Standards for Compliance and as specified in the project approval for the Covered Project.

403.07 Hardship or Infeasibility Exemption.

- A. **Exemption.** If an applicant for a Covered Project, or project pursuing incentives using third party standards, believes that circumstances exist that make it a physical or technical hardship or infeasibility to meet the requirements of this Article, the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show physical or technical hardship or infeasibility.
- B. **Procedure and Criteria for Granting Exemption.** If an applicant for a Covered Project, or project pursuing incentives using third party standards, believes such circumstances exist, the applicant may apply for an exemption from specific green building criteria at the time of application submittal. The applicant must indicate the maximum threshold of compliance that is feasible for the covered project and the circumstances that create a hardship or make it infeasible to fully comply with this Article. Circumstances that constitute hardship or infeasibility include, without limitation, the following:
1. ***Conflict with other Provisions.*** There is conflict with the compatibility of the Standards of Compliance, the International Building Code, the City's General Plan, and/or zoning regulations.
 2. ***Scope of Project.*** The project scope is limited such that the minimum number of green building measures needed for compliance cannot be achieved.
 3. ***Innovation.*** The project will include alternate methods that provide equal or greater resource conservation, energy conservation or resident health than those provided by the adopted green building measures.
- C. **Granting of Exemption.** If the Hearing Officer, or designee, determines that it is a physical or technical hardship or infeasibility for the applicant to fully meet the requirements of this

Article based on the information provided, the Hearing Officer must determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the Hearing Officer must be provided to the applicant in writing. If an exemption is granted, the applicant is required to comply with this Article in all other respects and is required to achieve, in accordance with this Article, the threshold of compliance determined to be achievable by the Hearing Officer.

- D. **Denial of Exemption.** If the Hearing Officer, or designee, determines that it is reasonably possible for the applicant to fully meet the requirements of this Article, the request must be denied, and the Hearing Officer must provide the applicant written notice of that determination. The project and compliance documentation must be modified to comply with this Article before further review of any pending planning or building application.

Article 404 Adequate Public Facilities

404.01 Purpose.

The purpose of this Article is to preserve the welfare of current and future City residents and to facilitate growth in an orderly manner by ensuring that adequate public facilities are available concurrently with the completion of new development

404.02 Administration of Article

- A. **Decision-Makers' Responsibility.** This Article shall be administered by the decision-makers with final authority to approve development applications under this Code. No decision maker shall approve a development application unless roads, water, wastewater, drainage, parks and open space, and schools facilities are deemed to be adequate as required by this Article. Nothing in this Article shall prevent decision makers from approving portions of development if the portions comply with the provisions of this Article.
- B. **Rules and Regulations.** The City Council may adopt, by resolution, rules, regulations, administrative guidelines, forms, worksheets and processes as are necessary to efficiently and fairly administer and implement this Article.

404.03 Applicability

This Article applies to all new subdivision and development review applications for new construction received by the City after the effective date of this Code.

- A. **Generally.** The availability and adequacy of Public Facilities shall be determined only with respect to Public Facilities located within the incorporated area of the City. If part of the applicable service area or traffic impact area lies in an adjacent municipality or an unincorporated area of Pinal County, absent an intergovernmental agreement with the County or municipality, availability and adequacy shall be determined only with respect to Public Facilities located within the incorporated area of the City.
- B. **Intergovernmental Agreement.** If the City has entered into an intergovernmental agreement with an adjacent county or with a municipality in Pinal County to evaluate Public Facilities in such areas, an applicant will be subject to the evaluation of the Level of Service standard for the facility as adopted by the adjacent county or municipality. Prior to the determination of adequacy of Public Facilities, the City shall require that the adjacent county or municipality certify approval of the proposed development will not cause a reduction in the Level of Service standards for those facilities lying within the adjacent county or the municipality in the City.

404.04 Determination of Adequate Public Facilities

- A. Upon receipt of the staff report and "will serve" letters from utility providers and the school district, and subject to compliance with all other City policies, regulations and standards for approval of a discretionary permit, the decision maker may:
 - 1. Make a positive adequacy of Public Facilities determination; or
 - 2. Make a negative adequacy of Public Facilities determination; or

3. Make a positive adequacy of Public Facilities determination subject to one or more of the following conditions:
 - a. Deferral of further approvals until all Public Facilities are available and adequate if Public Facilities in the Impact Area are not adequate to meet the Adopted Level of Service for the entire development proposal, consistent with the requirements of this Article;
 - b. Reduction of the density or intensity of the proposed development to a level consistent with the available adequacy of Public Facilities; or
 - c. Provision by the Applicant of the Public Facilities necessary to provide adequate capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur.
- B. A proposed rezoning that could result in a range of potential impacts shall be reviewed as if the greatest impact would result. The adequacy of public facilities review for the application for a rezoning shall compare the adequacy of Public Facilities to the maximum projected demand which may result from the proposed rezoning based upon the potential density of the affected area pursuant to the rezoning. Nothing herein shall authorize a rezoning or the issuance of a Conditional Use Permit that would otherwise be inconsistent with the Maricopa General Plan.

404.05 Roads

All new developments shall be served by an adequate network of roads.

- A. **Applicant's Responsibility.** The applicants for major development projects are responsible for inquiring with the Arizona Department of Transportation (ADOT) or the City Engineer regarding the necessity for a Traffic Impact Study (TIS) and submitting a copy of the response to the need for a TIS with their application.
- B. **Traffic Impact Study.** Any TIS performed pursuant to this Article shall include in its scope those projects in the development stage that are geographically proximate to the proposed new development being evaluated under this Article. A representative from the City shall attend the meeting when the study's scope is established, or the study's scope may be established as part of the Preliminary Review Process under Article 502.
- C. **Determination of Roads Adequacy**
 1. If a TIS subject is not required, then roads shall be deemed adequate for the purpose of this Article.
 2. If the TIS performed reports that the Level of Service (LOS) for traffic is not D, E or F and there are no improvements necessary or recommended by ADOT or the City Engineer as a result of the TIS, then roads shall be deemed adequate for the purpose of this Article.
 3. If the TIS performed reports that the LOS for traffic is D, E or F or there are improvements necessary or recommended by ADOT or the City Engineer as a result of the TIS, then roads shall be deemed inadequate for the purpose of this Article except in the case when the City Council adopts a resolution affirming the

idea that future road improvements set forth in a binding agreement or appearing in ADOT's State Transportation Improvement Program (STIP) will, to the maximum degree possible, alleviate congestion exacerbated by approved new development.

404.06 Water

All new development shall be served by an adequate water system.

A. Determination of Water System Adequacy

1. The applicant shall submit a letter from the Utility Representative addressing the adequacy of the City's water system to support new development, listing water system upgrades, if any, necessary to support new development, and stating whether the water system is adequate or inadequate, to meet the needs of the proposed development based on:
 - a. The water system's design capacity;
 - b. The water system's supply source;
 - c. The water system's available capacity;
 - d. The projected water needs of proposed new development to include needs for domestic consumption and fire protection;
 - e. Existing storage, treatment, and pumping facilities affected by the proposed development;
 - f. The impact of projects in the development pipeline on the water system's available capacity; and
 - g. Other variables found to have an effect on the ability of the water system to satisfy the projected water needs of the new development.

- B. If the Utility Representative states that the water system is deemed inadequate, then the City shall determine the water system to be inadequate for the purposes of this Article and not approve the application for new development in question. An application may be approved by the City if a binding agreement specifies that the Applicant shall fund water system improvements deemed necessary by the Utility Representative to provide adequate water facilities, and the Applicant agrees.

404.07 Sewer

All new development shall be served by an adequate sewer system.

A. Determination of Sewer System Adequacy

1. The decision-maker shall find the sewer system adequate or inadequate, and including consideration of at least all of the following elements:
 - a. The sewer system's design capacity;
 - b. The sewer system's available capacity;
 - c. The projected wastewater flow to be generated by proposed new development;

- d. The impact of projects in the development pipeline on the sewer system's available capacity;
 - e. Projects appearing in the Capital Improvements Program that will affect the ability of the sewer system to serve new development;
 - f. The sewer system's permitted treatment capacity with the Arizona Department of Environmental Quality; and
 - g. Other variables found to have an effect on the ability of the sewer system to accept the projected wastewater flow from new development.
2. If the Director determines that the sewer system may be deemed inadequate, the decision-maker shall not approve the application for new development in question in all but the following cases:
- a. Projects in the Capital Improvements Program will increase the sewer system's ability to support new development and a Binding Agreement specifies that development will take place in a manner so that the start of construction for phases of development without sewer system improvements does not occur until the sewer improvements specified in the Capital Improvements Program are in place.
 - b. The applicant agrees to fund sewer system improvements deemed necessary by the City to provide adequate sewer facilities and the Applicant agrees that development will take place in a manner so that the start of construction for phases of development without sewer system improvements does not occur until the agreed upon Applicant funded improvements are in place.
 - c. The City and Applicant will jointly improve the City's sewer system according to recommendations made by the Utility Representative, and requires the Applicant to develop in a manner so that the start of construction for phases of development without sewer system improvements does not occur until such time as the agreed upon City and Applicant funded sewer system improvements are in place.
 - d. Multiple Applicants enter into a Development Agreement subject to all of the following conditions:
 - (1) The multiple Applicants' party to this Binding Agreement shall share the costs of sewer system improvements deemed necessary by the City to ensure adequate sewer facilities for new development.
 - (2) Each individual Applicant's share of the costs of sewer system improvements shall be calculated based on the individual Applicant's pro-rata share of wastewater Equivalent Dwelling Units to be created by the multiple Applicants' new development.
 - (3) The individual Applicant's share of costs may be modified if circumstances other than the individual Applicant's pro-rata share of wastewater Equivalent Dwelling Units are found to increase or

decrease the cost of providing sewer system improvements to the individual Applicant's new development.

- (4) The multiple Applicants shall agree to develop in a manner so that the start of construction for phases of development without sewer system improvements does not occur until the agreed upon Applicant funded improvements are in place.

404.08 Schools

All new development shall be served by an adequate school system.

A. Determination of School System Adequacy.

1. The decision-maker shall find the school system adequate or inadequate based on information provided by the school district and consideration of the following elements:
 - a. The capacity of existing and planned schools in the attendance area of school-age children who will live in the development;
 - b. The student generation of the proposed new development; and
 - c. Other variables found to have an effect on the ability of the school district to accept students from new development.
2. If the Director determines that the school system may be deemed inadequate, the decision-maker shall not approve the application for new development in question in all but the following cases:
 - a. New schools or improvements to existing schools will increase the district's ability to accommodate students from new development and the development will be built in a manner so that the start of construction for phases of development without adequate schools does not occur until the schools are in place or funding is assured for their completion prior to issuance of certificates of occupancy.
 - b. Multiple Applicants enter into a Development Agreement subject to all of the following conditions:
 - (1) The multiple Applicants shall share the costs of school improvements deemed necessary by the district to ensure adequate sewer facilities for new development.
 - (2) Each individual Applicant's share of the costs of improvements shall be calculated based on the individual Applicant's pro-rata share of Dwelling Units to be created by the multiple Applicants' new development.
 - (3) The individual Applicant's share of costs may be modified if circumstances other than the individual Applicant's pro-rata share of Dwelling Units are found to increase or decrease the cost of providing improvements to the individual Applicant's new development.

- (4) The multiple Applicants shall agree to develop in a manner so that the start of construction for phases of development without adequate schools does not occur until the agreed upon Applicant funded improvements are in place.

Article 405 Affordable Housing Density Bonus Program

405.01 Purpose and Applicability

The specific purposes of the voluntary Affordable Housing Density Bonus Program are to:

- A. Allow for density bonuses for affordable housing low and moderate income households; and
- B. Establish requirements for resale and rental controls to ensure that bonus units remain affordable for at least 30 years or such other term as required by the City.

405.02 General Provisions

- A. **Land Use Compatibility.** All affordable housing units shall be dispersed within market-rate projects, whenever feasible. Affordable housing units within market-rate projects shall be comparable with the design of market-rate units in appearance, use of materials, and finished quality. Building forms, materials and proportions that are compatible with the character of the surroundings shall be used.
- B. **Availability.** Affordable housing units build under this voluntary program shall be constructed concurrently with, and made available for qualified occupants at the same time as the market-rate housing units within the same project unless both the City and the developer agree to an alternative schedule for development.
- C. **Income Levels.** For purposes of determining income levels of households under this chapter, the City shall use the Phoenix metropolitan area annual household income by household size reports prepared by the U.S. Department of Housing and Urban Development (HUD), available from the Arizona Department of Housing.

405.03 Below Market Rate Housing – Bonus Incentives

- A. **Density Bonus.** The City shall grant a density bonus in the following amounts over the otherwise allowable maximum residential density permitted by this Code, and one or more additional incentives, if the applicant applies for and proposes to construct any one of the following:
 - 1. **Low Income Units.** A density bonus of 20 percent may be granted if 10 percent of the total units of a housing development are affordable to low income households of a given size, as defined by HUD and this Code. For each additional one percent increase above 10 percent units affordable to low income households, the density bonus shall be increased by 1.5 percent up to a maximum density bonus of 30 percent of the maximum allowable residential density for the site
 - 2. **Moderate Income Units in Condominium and Planned Unit Developments.** A density bonus of five percent if 10 percent may be granted of the total dwelling units in a condominium project are affordable to low income households of moderate income, as defined by HUD and this Code. For each additional one percent increase above 10 percent units affordable to moderate income households, the density bonus shall be increased by one percent, up to a maximum of 30 percent of the maximum allowable residential density for the site.

- B. **Qualifying Projects—Number of Units.** The bonuses under Subsections (A)(1) and (A)(2), above, are available for residential and mixed use development projects of five or more units.
- C. **Calculation of Density Bonus Units.** When calculating the number of permitted density bonus units for a specified income group, all fractional units shall be rounded to the next higher whole number. The applicant who requests a density bonus for a project that meets two or more of the eligibility requirements shall specify whether the bonus shall be awarded on the basis of paragraphs 1 or 2 of Section 405.03.A.
- D. **Lower Density Bonuses.** The City may grant a proportionally lower density bonus if an applicant agrees to construct a development containing less than the percentage of housing for low income households than provided in Subsection (A) of this Section.
- E. **Transfer of Bonus Units.** The City may approve a transfer of density bonus units from "sending" to "receiving" lots located within a development project or between development projects under the same ownership, subject to a Development Agreement.

405.04 Compliance Procedures

- A. **Duration of Affordability.** All affordable housing units shall be kept affordable for a minimum period of 30 years or such other term approved by the City.
- B. **Regulatory Agreement Required.** All affordable housing projects shall be subject to the approval of an Affordable Housing Regulatory Agreement (the "Agreement"). The terms of the Agreement shall be reviewed and revised as appropriate by the Zoning Administrator Director and/or City Attorney, who shall formulate a recommendation to the decision-making body for final approval. This Agreement shall include, but is not limited to, the following:
 - 1. **Number of Bonus Units.** The total number of units approved for the projects, including the number of bonus affordable housing units requested.
 - 2. **Description of Bonus Units.** The location, unit sizes (in square feet) and number of bedrooms of the affordable housing units.
 - 3. **Household Income Group.** A description of the household income groups to be accommodated by the project and a calculation of the Affordable Sales Price or Rent and criteria for making annual or periodic adjustments.
 - 4. **Certification Procedures.** The party responsible for certifying sales prices or annual rental rates, and the process that will be used for certification.
 - 5. **Schedule.** A schedule for the completion and occupancy of the affordable housing units.
 - 6. **Required Term of Affordability.** Duration of affordability of the bonus housing units. Provisions should also cover resale control and deed restrictions on bonus housing units that are binding on property upon sale or transfer.
 - 7. **Expiration of the Agreement.** Provisions covering the expiration of the Agreement, including notice prior to conversion to market rate units and right of first refusal option for the City or a nonprofit housing provider identified by and acceptable to the City and/or the distribution of accrued equity for for-sale units.

8. ***Remedies for Breach.*** A description of the remedies for breach of the Agreement by either party.
9. ***Other Provisions.*** Other provisions to ensure implementation and compliance with this Article.
10. ***Condominium and Planned Developments.*** In the case of condominium and planned developments, the Agreement shall provide for the following conditions governing the initial resale and use of affordable housing units:
 - a. Bonus units shall, upon initial sale, be sold to eligible Low Income Households at an Affordable Sales Price as defined by this Ordinance.
 - b. Bonus units shall be initially owner-occupied by eligible Low Income Households.
 - c. Upon resale, the seller of a bonus unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation, as established in the Agreement. The City shall recapture its proportionate share of appreciation, which shall be used to promote home ownership opportunities. The City's proportionate share shall be equal to the percentage by which the initial sale price to the targeted household was less than the fair market value of the unit at the time of initial sale.
11. ***Rental Housing Developments.*** In the case of rental housing developments, the Agreement shall provide for the following conditions governing the use of Bonus Units during the use restriction period:
 - a. The rules and procedures for qualifying tenants, establishing affordable rent rates, filling vacancies, and maintaining Bonus Units for qualified tenants.
 - b. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this chapter.
 - c. Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying Bonus Units, and which identifies the bedroom size and monthly rent or cost of each Bonus Unit.

Article 406 Landscaping

406.01 Purpose

The purpose of this Article is to establish standards for landscaping. The landscaping standards are intended to:

- A. Improve the appearance of the community by requiring aesthetically pleasing landscaping on public and private sites;
- B. Soften the appearance of urban development;
- C. Ensure appropriately designed and maintained landscaping elements that allow natural surveillance;
- D. Generate and preserve community identity to reinforce a sense of place that is unique to various neighborhoods throughout the City;
- E. Encourage the use of native or adapted plant species and demonstrate appropriate design and maintenance techniques and discourage the use of non-native invasive plants which have a negative impact to the City's natural environment; and
- F. Provide environmental improvements such as mitigating air and storm water pollution, providing shade and reducing the effects of the urban heat island.

406.02 Applicability; Exemptions.

- A. **Applicability.** The regulations of this Article shall apply to:
 - 1. ***Proposed Developments.*** All buildings and uses of land, except agricultural buildings.
 - 2. ***Existing Properties.*** When there is a change in the distinguishing traits or primary exterior features of a building such as alterations to entranceways, porches, driveways, and front yards, or if there are exterior additions that project into the front yard, an increase in parking, or a change in use or building occupancy designation, after the effective date of this Code, the standards of this Article apply.
- B. **Exempt Projects.** The requirements of this Article do not apply to:
 - 1. Interior or upper-story additions to existing nonresidential or residential construction that add less than 20 percent to the existing floor area;
 - 2. The establishment of an accessory use on the same lot as an existing primary use, such as the installation of an accessory office space, with no expansion of floor area or outdoor area occupied; and
 - 3. A change in occupancy of a building that does not involve a change in the use type (e.g. the use classification).

406.03 General Requirements

- A. **Landscaped Areas.** Required landscaped areas shall be maintained free from encroachment by any use, structure, vehicle, or feature not a part of the landscaping design, except for the fire hydrants and related fire protection devices.

1. Where turf abuts decomposed granite or similar inorganic landscape material, a hardscape edging material such as brick or concrete curb/mowstrip shall be provided.
 2. Where vehicular cross-access is provided between adjoining properties that are not part of group commercial, office, industrial development, a 15-foot-wide perimeter landscape yard except where drive aisle occurs shall be provided.
- B. **Tree Size.** Required trees shall be a minimum size as specified in the Arizona Nursery Association “Recommended Tree Specification” latest edition, a copy of which will be maintained on file by the Planning Division.
- C. **Shrubs.** Required shrubs shall have a minimum mature growth height of 18 inches. At least 50 percent of required shrubs shall be a minimum of five gallons in size upon installation, but in no case shall any shrub be less than one-gallon size.
- D. **Ground Cover.** Required ground cover may be of two types:
1. Vegetative ground cover consisting of living plant materials characterized by horizontal, as well as vertical growth, generally not exceeding 18 inches in height.
 2. Inert ground cover consisting of gravel, decomposed granite, crushed rock, desert tree mulch or other approved materials. The use of “desert cobble” that looks like the desert floor, consisting of natural desert covers and seed mix, is encouraged.



FIGURE 406.03.D: GROUND COVER TYPES

- E. **Irrigation Systems.** Required irrigation systems shall be underground automatic watering systems, unless the lot is served by functioning flood irrigation.
- F. **Paving and Hardscape Materials.** Paving and ground treatment shall be an integral part of site and landscape design.

406.04 Site Landscaping

- A. **Streets.**
1. **Allowable Uses.** Landscape yards shall be exclusively maintained as landscaped areas with plant materials and may include monument signs, parking screen walls, and retention basins.
 2. **Exceptions:** Outdoor seating for restaurants may encroach:
 - a. In NC Districts, up to 50 percent of the width of the required landscape area
 - b. In Mixed Use Districts, the entire width of the required landscape area.

3. **Basis for Calculation.** Plant materials shall be calculated based on a linear module of 25 feet. Trees and shrubs may be spread throughout the development.
4. **Numbers of Plants:**

TABLE 406.04.A.4: REQUIRED NUMBER OF PLANTS BY STREET TYPE	
<i>Street Right-of-Way</i>	<i>Minimum Required Plants</i>
Arterial Streets (over 110')	1 Trees and 6 Shrubs per 20 Linear Feet of Street Frontage (4 trees and 24 shrubs per 100')
Major Collector Streets (90-110')	1 Trees and 6 Shrubs per 20 Linear Feet of Street Frontage (4 trees and 24 shrubs per 100')
Collector/Industrial/Commercial Streets (60-90')	1 Trees and 6 Shrubs per 20 Linear Feet of Street Frontage (4 trees and 16 shrubs per 100')
Public or Private Local Streets (Less than 60')	1 Trees and 4 Shrubs per 20 Linear Feet of Street Frontage (4 trees and 16 shrubs per 100')
All Fractional Amounts shall be rounded up to the next whole number (Example 2.15 trees rounds up to 3 trees)	

5. **Mixed Use Districts.** All new development shall provide shade with canopy trees, shade structures or building overhangs (equal to 50 percent of sidewalk along street frontages.)
6. **Minimum Size.** Minimum size of plant materials shall be as follows:
 - a. **Trees.**
 - (1) A minimum of 25 percent of the total required trees shall be 36-inch or larger box trees.
 - (2) A minimum of 50 percent of the total required trees shall be 24-inch box trees.
 - (3) No trees shall be smaller than 15-gallon size.
 - b. **Shrubs.**
 - (1) A minimum of 50 percent of the total required shrubs shall be 5-gallon size or larger.
 - (2) No shrubs shall be less than 1-gallon size.
 - c. **Substitutions.** Substitutions for the above requirements may be made according to the following table.

TABLE 406.04.A.6: TREE SUBSTITUTIONS		
<i>Tree to be placed on site</i>	<i>15-gallon tree equivalent</i>	<i>24-inch box tree equivalent</i>
24-inch box tree	2 trees	-
36-inch box tree	3 trees	2 trees
48-inch box tree	4 trees	3 trees
60-inch or larger box tree	-	4 trees

7. All landscape areas shall be either covered with decomposed granite, 'desert varnish or cobble', desert tree mulch, turf, and/or acceptable alternative with supplemental shrubs and ground covers, accents, flowers, vines. Fifty percent of the landscape area shall be vegetative material at maturity.
8. All landscape plant material should be appropriate for the developed environment.

B. Adjacent Lot Lines.

1. *Buffer Zones Adjacent to Residential Zoning Districts*

- a. *Width.* Minimum 20 feet or 25 feet measured from the lot line.
- b. *Ground Treatment.* The entire landscape yard shall be either covered with decomposed granite, 'desert varnish or cobble', desert tree mulch, turf, and/or acceptable alternative with supplemental shrubs and ground covers, accents, flowers, vines. Fifty percent of the landscape area shall be vegetative material maturity.
- c. *Number of Plants.*
 - (1) Screening. Landscape yards not visible from public parking/drive aisles and adjacent to loading, service and unsightly areas shall have A minimum of five non-deciduous trees per 100 linear feet of adjacent property line (one tree per 20 linear feet) or shall have continuous tree canopy between 6 feet and 20 feet height at maturity, 50 percent canopy within 5 years, 70 percent canopy within 7 years and 100 percent within 10 years.
 - (2) Enclosed Side or Rear Yards, Not Visible from Public Parking or Drive Aisles. Trees and shrubs are not required.
 - (3) Areas Visible from Public Parking or Drive Aisles. A minimum of 4 nondeciduous trees and 20 shrubs per 100 linear feet of adjacent property line shall be provided.
 - (4) Transition Areas. A planted transition between visible areas and loading/service areas shall be provided.
- d. *Size of Plants.* Required trees shall be at least 36-inch box size.

2. *Landscaping Adjacent to Non Residential.*

- a. *Width.* Landscaping width shall conform to minimum yard and setback requirements as established for each zone in chapters four through ten.
- b. *Ground Treatment.* The landscaped yard shall be either covered with decomposed granite, 'desert varnish or cobble', desert tree mulch and/or turf. Supplemental shrubs and ground covers including accents, flowers, and vines shall provide 50 percent vegetative ground coverage.
- c. *Number of Plants.* A minimum of three non-deciduous trees and 20 shrubs per 100 linear feet of adjacent lot line shall be provided. Shrubbery and

ground covers are not necessary if the area is not visible from public parking and drive aisles.

- d. *Size of Plants.* A minimum of 50 percent of the required trees shall be at least 24-inch box size. The balance of the required trees shall be at least 15-gallon-size trees.
- e. *Plant types.* In areas with no pedestrian activity, appropriate low water use desert trees shall be planted.
- f. *Exception.* Trees within Industrial Districts may be 15-gallon-size throughout.

- C. **Landscaping of Interior Setbacks.** Where a lot of less than 2.5 acres located in a Commercial or Mixed-Use District is adjacent to an RS District, at least 20 feet of the depth of such setbacks must be landscaped, Landscaping, and remain free from parking, driveways, and encroachment by any structures that are not part of the landscaping design. On sites of 2.5 acres or more adjacent to an RS district, at least 25 feet of the depth of such setbacks must be landscaped and free from encroachments. Properties that are adjacent to non-residential districts, at least 15 feet of the depth of interior setbacks must be landscaped.

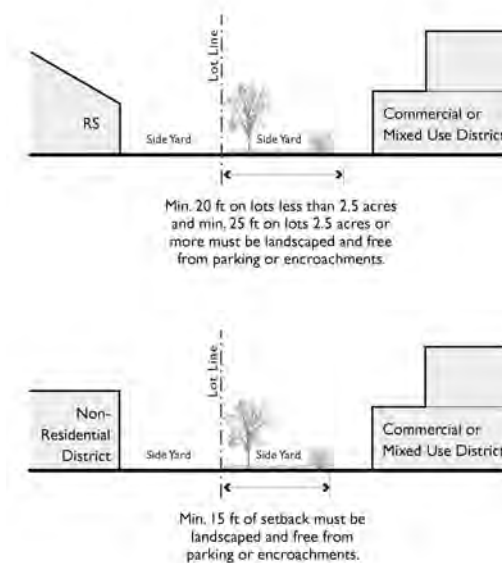


FIGURE 406.04.C: LANDSCAPING OF INTERIOR SETBACKS

406.05 Parking Lot Landscaping

- A. **Applicability.** The interior parking lot landscaping standards of this Section apply to all off-street parking lots containing 10 or more parking spaces. They do not apply to vehicle/equipment storage lots or vehicle and equipment sales lots.
- B. **Landscape Islands.**
 1. Parking lot landscape islands shall be installed at each end of a row of stalls and in between for maximum 6 contiguous parking spaces. The distance may be increased

to 8 contiguous spaces by the Hearing Officer if it is found that the overall amount of landscaping increases by at least 10% on the entire development site.

2. Landscape islands shall be a minimum of 8 feet wide and 15 feet in length for single-row and 30 feet in length for double-row parking. All measurements are to face of curb.
3. Radius curbing shall be provided along drive aisles with a minimum four-foot radius.
4. For rows of more than 16 parking spaces, landscape islands shall be staggered.

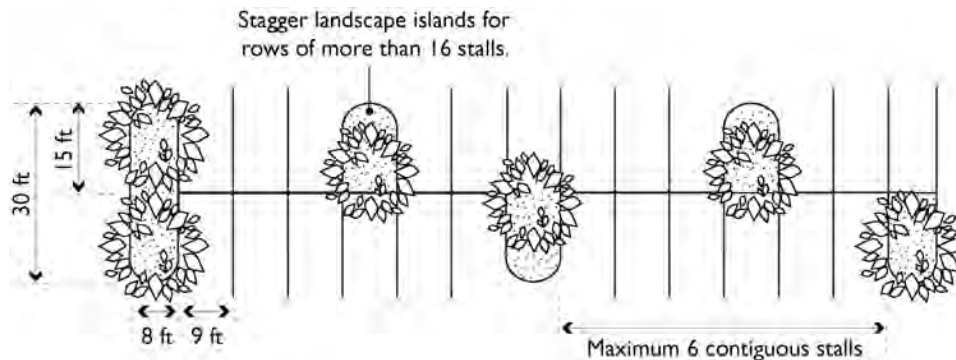


FIGURE 406.05.B.4: LANDSCAPE ISLANDS

5. The maximum length of a covered parking canopy shall be 15 contiguous parking. Landscape islands may be eliminated when a conflict with the covered parking canopy occurs. However, landscape islands must be installed at the end of all parking rows.
6. When parking canopies are adjacent to each other in a single row, the total length of each canopy shall not exceed 15 parking stalls and the adjoining canopies shall be separated by at least a 24-foot-wide landscape island as depicted in the following illustration.

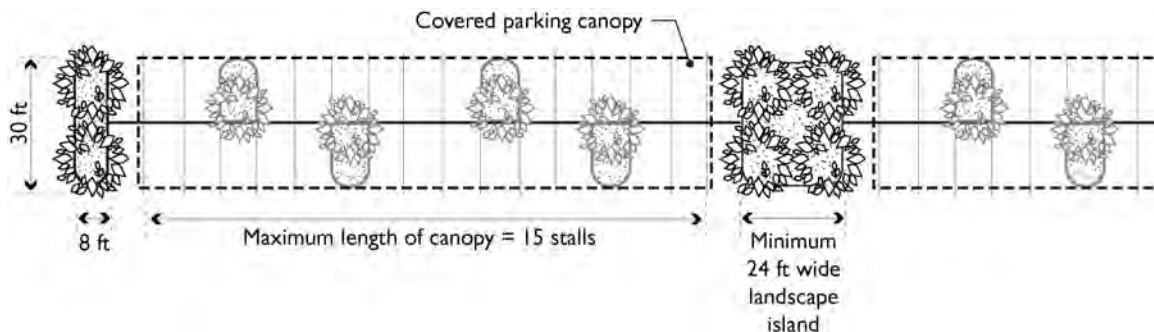


FIGURE 406.05.B.6: ADJACENT CANOPIES

7. For parking lots containing more than 200 spaces, one eight-foot-by-15-foot staggered landscape island may be replaced with two landscape islands of at least 25

square feet clear landscape area each. Each landscape island/ planter shall contain at least one tree and three shrubs. These landscape islands/ planters may be designed in any combination of shape and size provided the minimum clear landscape area dimension is five feet.

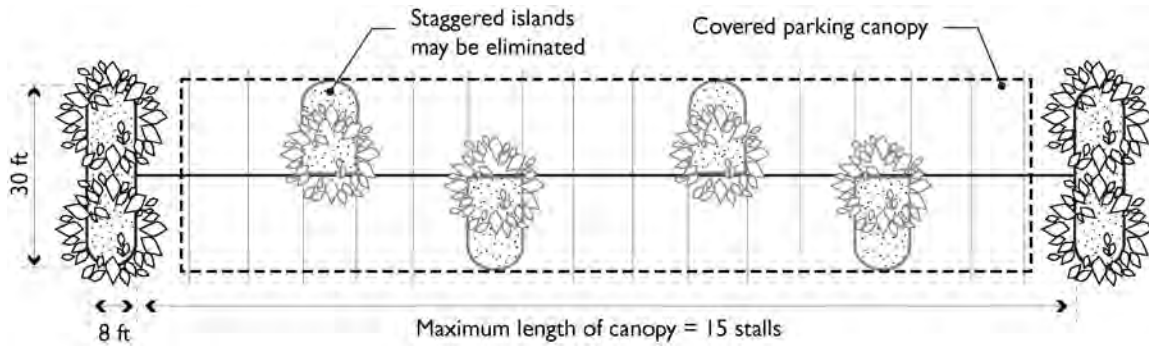


FIGURE 406.05.B.7: COVERED CANOPIES

C. **Medians.** Where divider medians occur adjacent to head-in parking, vehicle overhang shall be as follows:

1. **Single-Row Parking.** A minimum seven-foot landscape area is required. The required median width does not include a sidewalk.

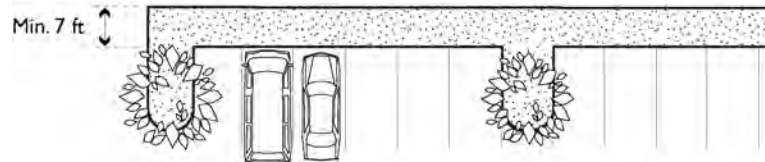


FIGURE 406.05.C.1: SINGLE-ROW PARKING

2. **Double-Row Parking.** Minimum eight-foot landscape area measured from face of curb to face of curb is required where the median width does not include a sidewalk.

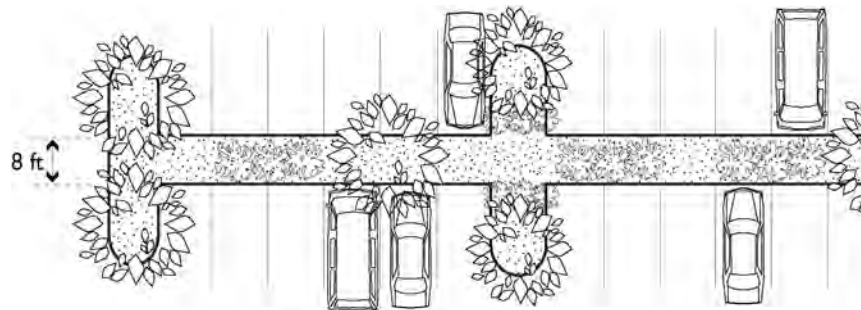


FIGURE 406.05.C.2: DOUBLE-ROW PARKING

3. **Medians with sidewalks.** When a sidewalk is located within a median, shade trees should be placed so that at least 25 percent of the sidewalk is shaded, at noon.

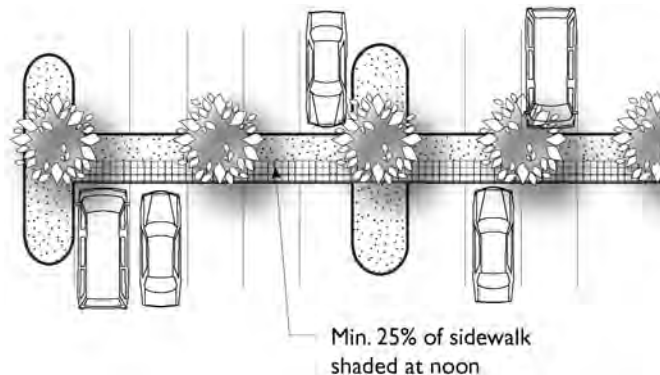


FIGURE 406.05.C.3: MEDIANS WITH SIDEWALKS

D. Plant Materials.

1. **Number of Plants.**
 - a. Parking lot landscape islands. One shade tree and three shrubs shall be provided for every 15-foot parking island.
 - b. Parking lot divider medians. In addition to the above requirements, minimum one shade tree and six shrubs shall be provided for every eight parking spaces.
2. **Size of Plants.** A minimum 10 percent of the required trees for parking lot interior landscaping shall be 36-inch box. The balance of the required trees shall be at least 24-inch box. Substitution based on plant size is not permissible for trees planted within the interior of a parking lot.
3. **Ground Cover.** All landscape planting areas that are not dedicated to trees or shrubs shall be permeable. No hardscape materials are permitted in designated planting areas.

406.06 Alternative Compliance

An applicant who can demonstrate that the intent of this Article can be exceeded, in whole or in part, may submit an Alternative Landscape Plan (ALP) prepared in accordance with the following principles and design criteria. The ALP shall include a narrative that clearly details the modifications being requested and explains how they enhance the landscape design principles listed below.

- A. **Design Principles.** In order to qualify for consideration, an ALP shall demonstrate compliance with at least six of the following principles:
 1. **Innovative Design.** Innovative use of plant materials and design techniques in response to unique characteristics of the site.
 2. **Native Vegetation.** Preservation or incorporation of existing native vegetation.
 3. **Plant Variety.** Use of a variety of plant material, including plants of color, form, and texture, in excess of the minimum requirements.
 4. **Naturalistic Design.** Incorporation of naturalistic design principles, such as variations in topography, meandering or curvilinear plantings, and grouping of

dominant plant materials (trees, large shrubs) in a manner consistent with native vegetation. Bio-swales are encouraged adjacent to all paved areas.

5. ***Compatibility with Surrounding Uses.*** A greater degree of compatibility with surrounding uses than a standard landscape plan would offer. The number of trees required should depend on the type of tree planted, not some set number. There cannot be a trade off in the number of trees due to the size of the tree at initial planting because what is needed is the ultimate screening.
 6. ***Water Efficiency.*** Use of water-efficient irrigation systems, such as rain water harvesting that allows paved surfaces to drain to adjacent bio-swales and spread rain water more evenly throughout the site, and xeriscaping at appropriate locations.
 7. ***Site-Specific Attributes.*** Incorporation of specific environmental attributes such as soil, hydrology, and vegetative communities unique to the site, and which are compatible with environmental features on adjacent properties. Incorporation of landscaping selections for the consistency of the streetscape in character areas.
- B. **Approval and Required Findings.** ALPs may be submitted in conjunction with an application. An ALP may be approved by the reviewing body upon finding that:
1. There are unique characteristics of the property, site design, stormwater management, or use that warrant special consideration to modify or deviate from the requirements of this section and that these characteristics are not self-created.
 2. The ALP meets or exceeds the minimum requirements of this section, while recognizing the unusual site design or use restraints on the property.
 3. Approval of an ALP will provide for both increased consistency and compatibility with adjacent properties.
 4. The ALP conforms to the allowable modifications listed in subsection B, above, and no exceptions to the limitations on the standards that may be modified are requested.

Article 407 Lighting

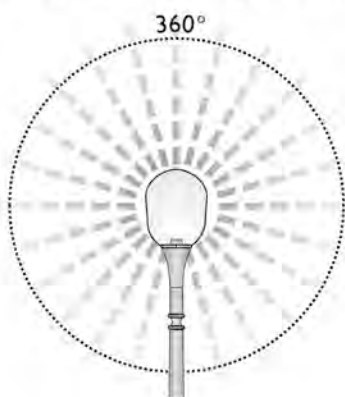
407.01 Purpose and Applicability

- A. **Purpose.** The purpose of this Article is to restrict the use of outdoor artificial illuminating devices to conserve energy and reduce light pollution.
- B. **Conformance with Applicable Codes.** All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this Code, the Subdivision Regulations, and the International Green Building code when adopted by the City and International Energy Conservation Code, as by the City, and all other applicable City ordinances and Code requirements. Where any provisions of any of the Arizona State Statutes, or any of the Federal law, or any companion City code comparatively conflicts with the requirements of this Article, the most restrictive shall govern.
- C. **Approved Material and Methods of Installation.** The provisions of this Code are not intended to prevent the use of any material or method of installation not specifically prescribed by this Code, provided any such alternate has been approved. The Zoning Administrator may approve any such alternate provided that the proposed design, material or method:
 - 1. Provides approximate equivalence to those specific requirements of this Code, or
 - 2. Is otherwise satisfactory and complies with the intent of the Code.

407.02 General Requirements

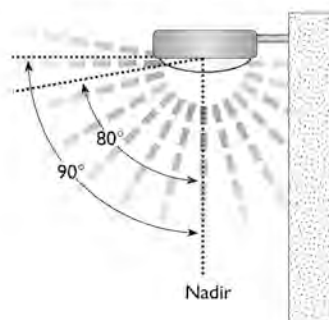
- A. **Timing Controls.** All lighting in non-residential development shall be on a time clock or photo-sensor system so as to be turned off during daylight hours and during any hours when the building is not in use and the lighting is not required for security. Exceptions may be approved for low-level architectural or landscape lighting.
- B. **Shielding and Filtering.** All lighting shall be designed to confine direct rays to the premises or onto adjacent public rights of way.
 - 1. **Shielding.** All exterior illuminating devices, except those exempted from this Article, shall be fully or partially shielded.
 - a. “Fully shielded” shall mean that those fixtures shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.
 - b. “Partially Shielded” shall mean that those fixtures shall be shielded in such a manner that the bottom edge of the shield is below the plane center line of the light source (lamp), minimizing the light above the horizontal.

Not Permitted: Non-Cutoff Luminaires



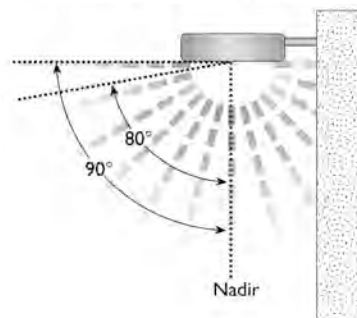
Noncutoff: Unrestricted high-angle illumination. There is no candela limitation in the zone above maximum candela.

Permitted: Cutoff Luminaires



Cutoff: The luminous intensity (in candelas) at or above an angle of 90° above nadir does not numerically exceed 2.5% of the luminous flux (in lumens) of the lamp or lamps in the luminaire, and the luminous intensity at or above a vertical angle of 80° above nadir does not numerically exceed 10% of the luminous flux of the lamp or lamps in the luminaire.

Permitted: Full Cutoff Luminaires



Full cutoff: The luminous intensity (in candelas) at or above an angle of 90° above nadir is zero, and the luminous intensity (in candelas) at or above a vertical angle of 80° above nadir does not numerically exceed 10% of the (in lumens) of the lamp or lamps in the luminaire.

FIGURE 407.02.B.1: LIGHT FIXTURE SHIELDING

2. **Filtration**

- a. Those outdoor light fixtures requiring a filter shall be equipped with a filter whose transmission is less than 5 percent total emergent flux at wavelengths less than thirty-nine hundred (3900) angstroms. Total emergent flux is defined as that between 3000 and 7000 angstrom units.
- b. Low Pressure Sodium lamps are the preferred lamp for minimizing adverse effects on astronomical observations.

3. **Requirements for Shielding and Filtering.** The requirements for shielding and filtering light emissions from outdoor light fixtures shall be set forth in the following table:

TABLE 407.02.B.3: REQUIREMENTS FOR SHIELDING AND FILTERING		
<i>Fixture Type</i>	<i>Shielded</i>	<i>Filtered ⁴</i>
Low Pressure Sodium ¹	Partially	None
High Pressure Sodium	Fully	None
Metal Halide ⁶	Fully	Yes
Fluorescent	Fully ⁵	Yes ²
Quartz ³	Fully	None
Incandescent Greater than 150W	Fully	None
Fossil Fuel	None	None
Glass Tubes filled with Neon, Argon, Krypton	None	None
Other sources	As approved by Zoning Administrator	As approved by the Zoning Administrator
Footnotes: 1. This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations. 2. Warm White and Natural Lamps are preferred to minimize detrimental effects. 3. For the purpose of this Code, quartz lamps shall not be considered an incandescent light source. 4. Most glass, acrylic, or translucent enclosures satisfy these filter requirements. 5. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding 6. Metal halide display lighting shall not be used for security lighting after 11 p.m. (or after closing hours if before 11 p.m.) unless fully shielded. Metal halide lamps shall be in enclosed luminaries.		

407.03 Lighting Standards

- A. All outdoor fixtures, other than bollard lighting, shall be setback from all lot lines a minimum of 10 feet or a distance equal to the height of the fixture, whichever is greater.
- B. Parking lot and pole mounted security lighting shall not exceed maximum mounting height of 14 feet within 100 feet of a residential zoning district.

- C. Wall-mounted fixtures shall be a maximum height of 14 feet above grade unless greater height is approved by the Zoning Administrator specifically for accentuating architectural features of a building, accentuating signage, accentuating landscape features, or for security.

407.04 Prohibitions and Exemptions

A. Prohibitions

1. ***Searchlights.*** The operation of searchlights for advertising purposes is prohibited.
2. ***Recreational Facility.*** No outdoor recreational facility, public or private, shall be illuminated by nonconforming means after 11 p.m.
3. ***Architectural Lighting.*** Unshielded outdoor illumination on buildings is not permitted unless it is at a less than 90 degree angle and of filtration level approved by the Hearing Officer. Exterior light fixtures attached to a building and designed as an integral part of the building may highlight building forms and architectural details as long as there is no direct spillover of light onto adjacent property and no light causes a hazard to motorist.
4. ***Advertising Sign or Landscape Illumination.*** The unshielded outdoor illumination of any, advertising sign, landscaping or other purpose is prohibited. However, low voltage accent landscape lighting is allowed.
5. ***Mercury Vapor.*** The installation of mercury vapor fixtures is prohibited. Existing mercury vapor fixtures shall be removed and replaced with compliant lighting fixtures.

B. Permanent Exemptions

1. ***Fossil Fuel Light.*** Produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
2. ***Federal and State Facilities.*** Those facilities and lands owned, operated as protected by the U.S. Federal Government or the State of Arizona are exempted by law from all requirements of this Code. Voluntary compliance with the intent of this Code at those facilities is encouraged.

C. Temporary Exemptions

1. ***By Right Exemptions.*** Temporary emergency lighting needed by police, fire, and other emergency services; temporary lights for holiday decorations.
2. ***Request for Temporary Exemptions.*** Any individual may submit a written request to the Zoning Administrator for a “Temporary Exemption” from the requirements of this Code. Such exemption will be valid for up to 30 days, renewable at the discretion of the Zoning Administrator. The Request for Temporary Exemption shall contain the following listed information:
 - a. Specific exemptions requested.
 - b. Type and use of exterior light involved.
 - c. Duration of time for requested exemption.
 - d. Type of lamp and calculated lumens.

- e. Total wattage of lamp or lamps.
 - f. Proposed location of exterior light.
 - g. Previous temporary exemptions, if any.
 - h. Physical size of exterior light and type of shielding provided.
3. ***Appeal for Temporary Exemptions.*** The Zoning Administrator, within five days from the date of the properly completed Request for Temporary Exemption, shall approve or reject in writing the Request. If rejected, the individual making the Request shall have the right of appeal to the Board of Adjustment.

Article 408 Nonconforming Uses and Structures

408.01 Purpose and Applicability

This Article establishes provisions for the regulation of nonconforming structures, uses, lots, and sites that were lawful before the adoption or amendment of this Code or previously adopted City ordinances, but which would be prohibited, regulated, or restricted differently under the terms of this Code or future amendments to the Zoning Code or the Zoning Map.

408.02 Establishment of Legal Nonconforming

- A. **Nonconformities.** Nonconforming status may result from any inconsistency with the requirements of this Code including, but not limited to, location, density, floor area, height, yards, usable open space, buffering, screening, landscaping, provision of parking, performance standards, or the lack of an approved use permit or other required authorization. Lawful nonconforming uses and structures are addressed in this Article.
- B. **Nonconforming Uses, Structures, and Lots.** Any lawfully established use or structure that is in existence on the effective date of this Code or any subsequent amendment but does not comply with all of the standards and requirements of this Code shall be considered legal nonconforming. Legal nonconforming uses and structures may only be continued subject to the requirements of this Article.

408.03 Nonconforming Uses

A. Classification of Nonconforming Uses

- 1. **Nonconforming Use.** This term means any use of land or property that was lawfully established and in compliance with all applicable ordinances and laws, but which, due to the adoption of this Code or any amendment thereto is a use not listed as permitted, accessory, administrative review, or subject to a permit in the zone in which it is located. Nonconforming use shall also include uses made nonconforming by the addition of a development standard previously not required for such use in the same zoning classification, where such added standard is specified to be a condition of use.

The Zoning Administrator may classify lawfully established nonconforming uses for the purpose of determining whether to permit substitution or expansion, subject to the requirements of this Article. The classification of any use or structure shall be optional and shall be based on written application by a qualified applicant, including such information as may be deemed necessary to determine that the use was lawfully established and to make any other findings that may be required.

- B. **Class I.** Class I nonconforming uses are designated by the Zoning Administrator after determining that:
 - 1. The existing nonconforming use was lawfully established;
 - 2. The proposed expansion or substitution of the nonconforming use would not be detrimental to public health, safety, or welfare;

3. The proposed expansion or substitution would not be inconsistent with the General Plan and would not preclude or interfere with implementation of any applicable adopted area plan;
 4. The proposed use will not depress the value of nearby properties; and
 5. No useful purpose would be served by strict application of the provisions or requirements of this Code with which the use or structure does not conform.
- C. **Class II.** Class II nonconforming uses include any lawfully established non-residential use that involves one of the following:
1. Storage, use, or generation of hazardous materials, processes, products, or wastes;
 2. Activity that may be detrimental to public health and safety because of the potential to create dust, glare, heat, noise, noxious gases, odor, smoke , and vibration;
 3. Conditions that could be incompatible with surrounding uses; or
 4. Any nonconforming Adult Entertainment Establishment.
- D. **Changes of Use.** No legal nonconforming use shall be substantially expanded or changed to a different use without approval of a Conditional Use Permit, unless the new use is permitted by right. This requirement does not apply to a change of ownership, tenancy, or management where the new use is in the same classification as the previous use, as defined in this Code and the use is not expanded.
- E. **Change from Nonconforming to Permitted Use.** Any nonconforming use may be changed to a use that is allowed by right in the Zoning District in which it is located and complies with all applicable standards for such use.
- F. **Absence of Use Permit.** Any use that is nonconforming solely by reason of the absence of a use permit may be changed to a conforming use by obtaining a Conditional Use Permit.
- G. **Parking.** If a use is nonconforming solely with respect to parking standards, the structure devoted to the use may be maintained and repaired, but the use may not be expanded, extended, or intensified in a manner that would increase the required number of off-street parking spaces, unless parking is provided under current standards for the addition or intensification of use only.

408.04 Expansion of Nonconforming Use

Only Class I nonconforming uses may be expanded as follows with approval of a Conditional Use Permit.

- A. **Within a Conforming Structure.** A nonconforming use in a structure that conforms to the applicable requirements of this ordinance and to the requirements of the International Building Code as adopted by the City, may expand the floor area that it occupies, subject to the approval of a Conditional Use Permit, provided that no structural alteration is proposed or made for the purpose of the expansion.
- B. **Within a Structure That Does Not Conform to the International Building Code.** Any nonconforming use in a structure that does not conform to the International Building Code, as adopted by the City, may not expand the area it occupies until and unless the structure is brought into conformance with all applicable Building Code requirements.

- C. **Expansions to Other Structures or Lots.** A nonconforming use may not be expanded to occupy all or a part of another structure or another lot that it did not occupy on the effective date of this Code.
- D. **Area Limit.** The expansion of the nonconforming use shall not exceed 50 percent of the floor area that the nonconforming use legally occupies at the time of application.
- E. **Abandonment.** No legal nonconforming use may be resumed, reestablished, or reopened after it has been abandoned or vacated for a period of one year, except:
 - 1. The legal nonconforming status of a single-residence or duplex residence shall not lapse, regardless of the length of time of non-use; or
 - 2. The owner/operator can provide evidence of continual operation, including:
 - a. Monthly business receipts;
 - b. Tax returns received within the previous 12 months; or
 - c. Other materials acceptable by the Zoning Administrator.

408.05 Nonconforming Structures

- A. **Nonconforming Building or Structure.** This term means any building or structure that was lawfully established and in compliance with all applicable ordinances and laws, but no longer complies with all applicable regulations and standards of development in the zone in which it is located.
- B. **Right to Continue.** Any structure that was lawfully established prior to the effective date of this ordinance or of any subsequent amendments to its text or to the Zoning Map may only be continued and maintained provided there is no alteration, enlargement, or addition to any building or structure; no increase in occupant load; nor any enlargement of the area, space, or volume occupied by or devoted to such use, except as otherwise provided in this chapter. The right to continue a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership. No substitution, expansion, or other change in use and no alteration or other change in structures is permitted, except as otherwise provided in this chapter. Legal nonconforming structures may be repaired, maintained or replaced in compliance with the requirements of this section unless deemed to be a public nuisance because of health or safety conditions.
- C. **Enlargements or Alterations.** Nonconforming structures may be enlarged, extended, structurally altered, or repaired in compliance with all applicable laws, subject to the following provisions.
 - 1. Alterations and enlargements that comply with the following, subject to only require the approval of the Zoning Administrator:
 - a. Alterations or enlargements necessary to meet City or state requirements; and
 - b. Alterations or enlargements necessary to meet current requirements of the zone in which the structure is located.
 - 2. Alterations and enlargements that comply with following, are subject to approval of a Conditional Use Permit:

- a. Alterations or enlargements that extend into a nonconforming yard or height limit, where the alteration or enlargement would not:
 - (1) Further reduce any existing nonconforming yard;
 - (2) Exceed applicable building height limits;
 - (3) Further reduce existing nonconforming lot coverage or floor area ratio requirements; and
 - (4) Increase the required number of off-street parking spaces unless parking is provided under current standards for the addition of the use only.
 3. Alterations or enlargements up to 50 percent of floor area of a legal, nonconforming single residence or duplex residence may be made without providing any additional parking space or changes to an existing driveway, provided that such alterations or enlargements do not increase the number of dwelling units on the lot and a Conditional Use Permit is approved.
 4. Notwithstanding the requirements of subsection C, a second unit in compliance with this Code may be developed on a lot that contains a nonconforming single-residence. If the single residence is nonconforming because it does not meet current parking standards, the second unit may only be established when parking is provided to meet the applicable requirements of this Code for both the primary dwelling and the second unit.
- D. **Maintenance and Nonstructural Repairs.** Maintenance, non-structural repairs and non-structural interior alterations are permitted to a nonconforming structure or to a structure occupied by a nonconforming use, so long as the changes and improvements do not enlarge or extend the structure.
- E. **Structural Repairs.** Structural repairs that do not enlarge or extend the structure, including modification or repair of bearing walls, columns, beams, or girders, may be undertaken only when the Building Division determines that such modification or repair is immediately necessary to protect public health and safety, occupants of the nonconforming structure, or occupants of adjacent property, and when the cost of such work does not exceed 50 percent of the appraised value of the nonconforming structure.
- F. **Restoration of a Damaged Structure.**
 1. A legal nonconforming building or structure that is damaged or partially destroyed may be restored or rebuilt if the cost of repair or reconstruction does not exceed 50 percent of the appraised value of the building or structure. Replacement of the damaged portions of the building is allowed by right provided that the replaced portions are the same size, extent, and configuration as previously existed.
 2. If the cost of repair or reconstruction exceeds 50 percent of the appraised value of the building or structure replacement, the land and building shall be subject to all of the requirements of this ordinance. However, the Zoning Administrator may approve a Minor Use Permit for the structure to be rebuilt to the same size, extent, and configuration as previously existed as long as the previous use is continued or the original use is reestablished, as provided for in this Article.

408.06 Abatement

The provisions of this Chapter shall not apply to a use or structure that is or becomes a public nuisance. In the event that a legal nonconforming use or structure is found to constitute a public nuisance, appropriate action may be taken by the City pursuant to Chapter 10, Offenses, Section 10-1-12, Nuisances, of the City Code.

Article 409 On-Site Parking and Loading

409.01 Purpose

The purpose of this Article is to provide standards for parking and loading facilities to accommodate the various land uses permitted by this Code. It is the intent of this Article to require the minimum number of on-site parking and loading spaces with maneuvering areas, driveways, and surface materials for the efficient movement of vehicular traffic and also to provide flexibility in meeting these requirements for sites with special needs. Additional purposes of this Article include:

- A. Ensuring the provision of safe and convenient places to park bicycles and motorcycles;
- B. Providing paved surfaces and alternative dust control measures to control and reduce the amount of dust and particles released to the atmosphere;
- C. Limiting the area of land consumed by parking by allowing reductions to the number of required parking spaces and sharing of parking spaces among multiple uses where appropriate;
- D. Minimizing conflicts between pedestrian and vehicular circulation; and
- E. Reducing the scale of paved surfaces and shading these surfaces, both to reduce heat gain that contributes to the urban heat island effect.

409.02 Applicability

The parking and loading requirements of this Article apply to all development in the City. They may be modified pursuant to the provisions for certain base districts and overlay districts.

- A. **Additions to Existing Buildings and Changes in Use.** When a change in use, expansion of a use, or expansion of floor area creates an increase of five percent or more in the number of required off-street parking or loading spaces, based on the initially approved and constructed facility or development, off-street parking and loading shall be provided according to the provisions of this Article. The additional parking shall be required only for such addition, enlargement, or change in use and not for the entire building or site. A change in occupancy is not considered a change in use unless the new occupant is in a different use classification than the former occupant.
- B. **Alterations that Increase Number of Dwelling Units.** If an alteration to an existing building increases the number of residential dwelling units on the site, off-street parking to serve the new dwelling units must be provided according to the provisions of this Article.
- C. **When Required.** Off-street parking and loading facilities required by this Article shall be constructed or installed prior to the issuance of a Certificate of Occupancy for the uses that they serve.

409.03 General Regulations and Standards

- A. **Location.** All required parking and loading spaces and maneuvering areas shall be located on the lot upon which the use served is located, except that parking spaces may also be located upon a contiguous lot incorporated into the development site. Parking spaces and maneuvering areas shall not be located within the required front yard in any RS district or in any required front or corner side yard or landscaped area in any other Zoning District,

except driveways that directly and immediately allow a vehicle to access the site from a street or abutting property.

- B. **Commercial Vehicles.** No commercial vehicle having a gross vehicle weight rating exceeding 13,000 pounds or having dual rear wheels exceeding 17 inches in diameter shall be parked overnight or stored on any Residential Zoning Districts.
- C. **Standards.** The following standards apply to required on-site parking and loading spaces, maneuvering areas, and access:
 - 1. Required parking and loading spaces, maneuvering areas, and driveways shall be paved with asphalt, concrete, paving stone, or masonry to a sufficient thickness to withstand repeated vehicular traffic, except on lots for single-family and agricultural uses. The Zoning Administrator, in collaboration with the City Engineer, may establish alternative standards for porous surface paving.
 - 2. Required parking spaces shall be permanently marked and shall be accessible from a street or alley by a driveway or aisle such that all vehicles shall approach the street or alley in forward motion, except for Single-Family Residences and Agricultural uses.
- D. **Compact Parking.** On a site with at least 10 required parking spaces, up to 20 percent of the total required parking spaces may be compact spaces, provided that the following standards are met:
 - 1. Where covered parking is required all covered parking spaces shall be standard size;
 - 2. All compact spaces are to be designated with a sign or pavement marking; and
 - 3. Compact spaces shall be distributed throughout the parking area, with no more than 8 compact spaces in a single row. No more than 4 compact parking spaces placed end-to-end shall make up any cluster of 10 parking spaces.
- E. **Accessible Parking.** Accessible parking spaces shall be provided and maintained pursuant to the Federal Disabilities Act and Arizonans with Disabilities Act of 1992.
- F. **Structured Parking.** The exterior elevations of any multi-level parking structure must be designed so as to screen or conceal parked cars from view from public streets and open space on the first and second floors of the structure. The floors of structured parking garages must be screened or concealed by one or more of the following methods:
 - 1. **Ground-Floor Commercial.** The garage's ground-level street frontage (except for driveways and pedestrian entrances) for the designated front of the structure shall be improved with Retail Sales, Food and Beverage Sales, Eating and Drinking Establishments, Personal Services, or similar pedestrian-oriented uses.
 - 2. **Landscaping.** Landscaping shall be provided in the form of perimeter planters within openings, and/or the incorporation of hanging baskets, flower boxes, or planting trellises.
 - 3. **Setback.** A parking structure that does not incorporate ground-floor retail or other commercial use or is not otherwise screened or concealed at street frontages on the first and second levels, must provide a densely planted landscaped yard that is a minimum of 10 feet in depth, or the required setback for the district in which it is located, whichever is greater.

4. **Combination of Opaque Screen Walls and Open Decorative Panels.** A combination of opaque screening devices and decorative panels may be used to screen parking within above ground structures. Opaque screen walls shall not be higher than three feet six inches relative to the abutting floor height, and shall not exceed 45 percent of the aggregate surface area of the exterior wall. Decorative panels or other devices with opacity of at least 40 percent shall be used to screen the remainder. The decorative panels shall be constructed of durable materials, such as iron, steel, copper, aluminum, formed concrete, glass block, brick or other textured masonry

G. **Recreational Vehicle (RV) Parking.** A single recreational vehicle may be parked or stored on property within a Residential Zoning District under the following circumstances only:

1. In a driveway, exterior or interior side yard, or the rear yard for the purpose of loading or unloading, not to exceed 48 hours before or after a trip; or
2. In a driveway, exterior or interior side yard, or the rear yard of an interior side or rear yard, if remaining at least 10 feet from the rear property line and screened so as not to be visible from the street; or
3. In a legally constructed attached garage, accessory building or structure.

H. **Size of Parking Spaces and Maneuvering Aisles.** Parking spaces and maneuvering aisles shall be provided to meet the minimum dimensions required by this subsection. Screening walls, roof support posts, columns, or other structural members shall not intrude into the required dimensions for parking spaces.

1. **Standard Parking Spaces.** The minimum basic dimension for standard parking spaces is nine feet by 18 feet. The Table below shows the dimensions of a stall and aisle according to the angle of parking spaces.

TABLE 409.03.H.1: STANDARD PARKING SPACE AND AISLE DIMENSIONS					
Angle of Parking	Stall Width	Curb Length Per Stall	Stall Depth	One-Way Aisle Width	Two-Way Aisle Width
Parallel	9'0"	22'0"	9'0"	12'	20'
30°	9'0"	18'0"	17'4"	11'	20'
40°	9'0"	14'0"	19'2"	12'	22'
45°	9'0"	12'9"	19'10"	13'	24'
50°	9'0"	11'9"	20'5"	15'	24'
60°	9'0"	10'5"	21'0"	18'	24'
70°	9'0"	9'8"	21'0"	19'	24'
90°	9'0"	9'0"	18'0"	24'	24'

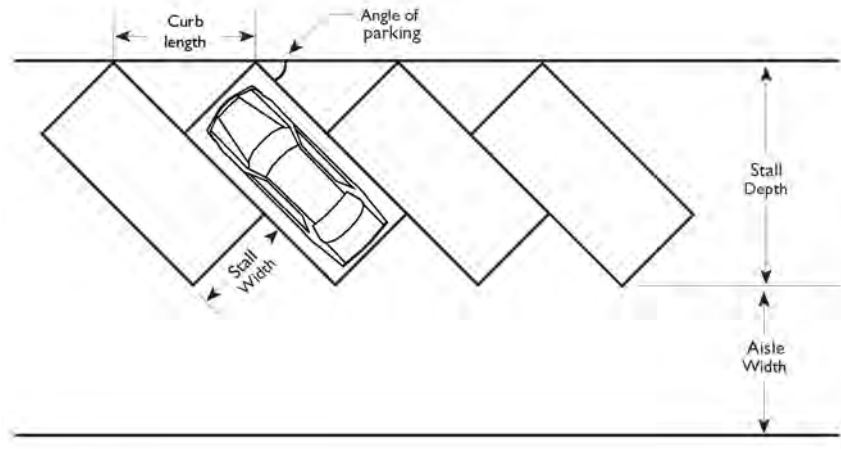


FIGURE 409.03.H.1: PARKING SPACES AND AISLES

2. **Compact Parking Spaces.** The minimum basic dimension for compact parking stalls shall be eight feet by 16 feet. The Table below shows the dimension of standards and aisles according to the angles of parking spaces.

TABLE 409.03.H2 PARKING AREA AND SPACE DIMENSIONS—COMPACT SPACES					
<i>Angle of Parking</i>	<i>Stall Width</i>	<i>Curb Length Per Stall</i>	<i>Stall Depth</i>	<i>One-Way Aisle Width</i>	<i>Two-Way Aisle Width</i>
Parallel	9'0"	22'0"	9'0"	11'	20'
30°	9'0"	18'0"	14'11"	11'	20'
40°	9'0"	14'0"	16'5"	11'	22'
45°	9'0"	12'9"	17'0"	11'	24'
50°	9'0"	11'9"	17'5"	13'	24'
60°	9'0"	10'5"	17'10"	16'	24'
70°	9'0"	9'8"	17'9"	16'	24'
90°	9'0"	9'0"	16'0"	21'	24'

- I. **Size of Parking Spaces for Motorcycles, Scooters, and Golf Carts.** Motorcycle and Scooter parking spaces shall have a minimum dimension of 5 feet by 9 feet. Golf cart parking spaces shall have a minimum dimension of 5 feet by 10 feet. All motorcycle and scooter parking areas shall be clearly marked and dedicated to these vehicles.
- J. **Electric Vehicle Charging Stations.** In parking facilities containing 20 or more spaces serving multiple unit dwellings, offices, hotels, and motels, and large scale resorts, at least five percent of parking spaces shall be electric vehicle (EV) charging stations. For all other uses, EV charging stations are eligible for green building development bonuses under Article 403 of this Code.
 1. Each EV charging station shall be clearly marked with a sign reading "Electrical Vehicle Charging Station".
 2. EV charging stations may be equipped with card readers, controls, connector devices, and other equipment as necessary for public use.

409.04 Required Parking Spaces

- A. **Minimum Parking Requirements.** The following Table specifies the minimum parking spaces required for each use:

TABLE 409.04.A: PARKING REGULATIONS	
<i>Use</i>	<i>Minimum Parking Requirement</i>
Rural Uses	
Animal and Crop Sales	1 space per 75 sq. ft. of sales area
Residential Uses	
Single Unit	
<i>Single Unit Detached</i>	2 enclosed spaces per dwelling
<i>Single Unit Attached</i>	2 enclosed spaces per unit
Second Dwelling Unit	1 additional space
Duplex	2.1 spaces per dwelling unit
Multiple Unit Dwelling	Guest- 0.2 space per unit Studio- 1 space per unit 1 Bedroom- 1.5 spaces per unit 2 Bedroom- 2 spaces per unit 3 Bedroom- 2.5 spaces per unit 4 Bedroom- 3 spaces per unit
Group Residential	1.2 space per dwelling unit for development with distinguishable dwelling units 1.0 space for each room plus 2 additional spaces for development with congregate dining and no distinguishable separate dwelling units
Assisted Living Facility	0.3 space per dwelling unit plus 2 additional spaces
Residential Care Facility	1.0 space per dwelling unit plus 2 additional spaces
Manufactured and Mobile Dwellings	2 spaces for each unit (may include tandem spaces); plus 2 guest parking space per 10 (or fraction thereof) dwelling units for the overall development
Public and Semi-Public Uses	
Colleges and Trade Schools, Public and Private	1 space per 200 sq. ft. of classroom + office space
Community Assembly	1 space per 75 sq. ft. used for public assembly
Cultural Facilities	1.5 spaces per 1,000 sq.ft.
Day Care Facility	1 space per 300 sq. ft.
Educational Facility, Public and Private	1 space per 75 feet for public assembly space, such as auditoriums and theaters, and 1 space per 600 sq. ft. for all other areas Elementary/junior high - 1 space per 300 sq. ft. of classroom + office space Instructional - 1 space per 200 sq. ft. of classroom + office High school/college - 1 space per 200 sq. ft. of classroom + office Vocational - 1 space per 200 sq. ft. of classroom + office
Emergency Shelters and Facilities	1 space per 1,000 sq.ft.

TABLE 409.04.A: PARKING REGULATIONS	
<i>Use</i>	<i>Minimum Parking Requirement</i>
Government Buildings	1 space per 200 sq. ft.
Hospitals and Clinics	
<i>Hospital</i>	1 space per 400 sq. ft.
<i>Clinic</i>	1 space per 200 sq. ft. 1 space per 150 sq. ft. for urgent care facilities
Parks and Recreation Facilities, Public	Campground- 1 (10' x 30') per campsite + 1 (10' x 30') per 6 campsites + 4 per laundry & shower facility All Other- 20 per athletic field or ball diamond or 1 per 4 seats, whichever results in more spaces
Public Safety Facility	1 per 200 sq. ft. office space
Religious Facility	1 space per 75 sq. ft. dedicated to and used for sanctuary/religious assembly
Social Service Facility	1 space per 500 sq. ft.
Commercial Use Classifications Uses	
Adult Entertainment Establishment	1 space per 350 sq. ft.
Animal Sales, Care and Services	
<i>Animal Sales and Grooming</i>	1 space per 250 sq. ft. of sales/service area
<i>Kennels</i>	1 space per 250 sq. ft. of office/service space
<i>Riding Schools and Stables</i>	1 space per 2 horse stalls
<i>Small Animal Day Care</i>	1 space per 250 sq. ft. of office/service space
<i>Veterinary Services</i>	1 space per 250 sq. ft. of office/service space
Automobile/Vehicles Sales and Services	
<i>Automobile Rentals</i>	1 space per 150 sq. ft.
<i>Automobile/Vehicle Repair, Major and Minor</i>	3 spaces per service bay plus 1 space per 100 sq. ft. of office and sales area
<i>Automobile/Vehicle Sales and Leasing</i>	1 space per 250 sq. ft. of interior display space; plus 1 space per 3 service bays; plus 1 space per 25 vehicles displayed outdoors
<i>Automobile/Vehicle Washing and Services</i>	1 space per 375 sq. ft., including service bays, wash tunnels, and retail areas Automated/Self-Service: 2 spaces minimum Full Service: 10 spaces minimum
<i>Service Station</i>	1 space per 100 sq. ft. of convenience retails sales
Banks and Financial Institutions	1 space per 300 sq. ft.
Building Materials Sales and Service	Retail: 1 space per 250 sq. ft. Wholesale: 1 space per 800 sq. feet
Business Services	1 space per 375 sq. ft.
Commercial Entertainment and Recreation	
<i>Banquet and Conference Centers</i>	Determined by Hearing Officer

TABLE 409.04.A: PARKING REGULATIONS	
<i>Use</i>	<i>Minimum Parking Requirement</i>
<i>Small Scale Facility</i>	1 space per 125 sq. ft. or sum of components (courts, daycare, office, etc.), whichever is less 10 spaces + 1 per 200 sq. ft. in excess of 1,000 sq. ft.
<i>Large Scale Facility</i>	1 space per 500 sq. ft. of public area Driving ranges: 1 space per tee plus ancillary use requirements
<i>Theaters</i>	1 space per 3 seats
<i>Golf Courses and Resorts</i>	2 space per tee plus ancillary use requirements
<i>Club or Lodge</i>	1 space per 200 sq. ft.
Commercial Kitchen	1 space per 250 sq. ft.
Eating and Drinking Establishments	
<i>Bars and Lounges</i>	1 space per 100 sq. ft. of customer seating area and 1 space per 400 sq. ft. for outdoor seating area 1 space per 100 sq. ft.; plus 1 space per 400 sq. ft. of outdoor dining area
<i>Restaurants, Full Service</i>	1 space per 100 sq. ft. of customer seating area, and 1 space per 400 sq. ft. for outdoor seating area
<i>Restaurants, Limited Service</i>	1 space per 75 sq. ft. of customer seating area, and 1 space per 400 sq. ft. for outdoor seating area
<i>Restaurant, Take Out</i>	1 space per 300 sq. ft. of customer seating area, and 1 space per 200 sq. ft. for outdoor seating area
Food and Beverage Sales	
<i>Convenience Market</i>	1 space per 300 sq. ft.
<i>General Market</i>	1 space per 300 sq. ft.
<i>Liquor Store</i>	1 space per 350 sq. ft.
<i>Specialty Food Sales and Facilities</i>	1 space per 300 sq. ft.
Funeral Parlors and Mortuaries	1 space per 100 sq. ft. used for public assembly plus 1 space per 400 sq. ft. of office area
Instructional Services	1 space per 200 sq. ft. of instructional area
Light Fleet-Based Services	1 space per 250 sq. ft.
Live-Work Quarters	1 space for each 750 sq. ft. of residential area, minimum of 1 space per unit
Lodging	
<i>Hotel and Motels; Bed and Breakfast; Inns</i>	0.8 space per room or suite of rooms with individual exits plus ancillary use requirements
<i>Large Scale Resorts</i>	Determined by Hearing Officer
Maintenance, Repair, and Rental Services	1 space per 500 sq. ft.
Medical Marijuana Uses	
<i>Dispensary Facilities</i>	Determined by Hearing Officer
<i>Cultivation</i>	Determined by Hearing Officer
Nurseries and Garden Centers	1 space per 400 sq. ft. of sales and service building, but not less than 4 spaces per use

TABLE 409.04.A: PARKING REGULATIONS	
<i>Use</i>	<i>Minimum Parking Requirement</i>
Office	
<i>Business and Professional</i>	1 space per 375 sq. ft.
<i>Medical and Dental</i>	1 space per 300 sq. ft.
Outdoor, Temporary, and Seasonal Sales	1 space per 375 sq. ft. display area, but not less than 4 spaces per use
Personal Services	1 space per 375 sq. ft.
Retail	
<i>General, Small Scale</i>	1 space per 300 sq. ft.
<i>General, Large Scale</i>	1 space per 250 sq. ft. plus 1 per 5,000 sq. ft. of outdoor display area
<i>Tobacco Paraphernalia</i>	1 space per 520 sq. ft.
Industrial Uses	
Artists Studio and Production	1 space per 500 sq. ft. but not less than 2 spaces per use
General Industrial	1 space per 1,000 sq. ft.
Laboratories	1 space per 400 sq. ft.
Light Industrial	1 space per 600 sq. ft.
Research and Development	1 space per 250 sq. ft.
Storage and Warehouse	
<i>Chemical and Mineral Storage</i>	1 space per 250 sq. ft. of office area
<i>Indoor Warehousing and Storage</i>	1 space per 5,000 sq. ft. (based on storage space), includes manager's office
<i>Outdoor Storage</i>	1 space per 250 sq. ft. of office area
<i>Personal Storage</i>	1 space per 900 sq. ft.
<i>Wholesaling and Distribution</i>	1 space per 900 sq. ft.
Transportation, Communication, Utility Uses	
Airports and Heliports	2 per aircraft, plus ancillary use requirements
Communication Facilities	
<i>Antennas and Transportation Towers</i>	1 per service employee
<i>Facilities within Buildings</i>	1 per service employee
Freight/Truck Terminals and Warehouses	1 space per 1,000 sq. ft.
Utilities	
<i>Major</i>	1 space per 250 sq. ft. of office area
<i>Minor</i>	None
Waste Transfer Facility	1space per 250 sq. ft. of office area

- B. **Basis of Calculation.** The on-site parking requirements specified in this Section are based on gross floor area, unless otherwise stated.

1. In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements of the various uses computed separately as specified in this Section, and the off-street parking space for one use shall not be considered as providing the required off-street parking for any other use.
 2. In case of fractional results in calculating parking requirements from the chart below, the required number shall be rounded up to the nearest whole number if the fraction is 0.5 or greater.
- C. **Covered Spaces.** Covered parking spaces shall be provided as follows:
1. Single-family residences shall provide a minimum of two covered parking spaces per unit.
 2. Multiple-residence projects shall provide one covered parking space per unit.
 3. Office-use developments shall provide one covered parking space per office or suite.
- D. **Minimum Number.** All uses, except single residences, shall provide at least four on-site parking spaces.
- E. **Maximum Number.** The maximum number of parking spaces allowed shall be 10 percent more than the number required by Table 409.04.A, unless a Conditional Use Permit has been approved allowing for more parking because the applicant has demonstrated that the additional parking is required to meet the anticipated parking demand of the proposed uses and the additional parking will not result in an over-dependence on automobiles to the detriment of other modes of access to the site.
- F. **Credit for On-Street Spaces.** On-street parking spaces located immediately adjacent to the frontage of properties in the Neighborhood Commercial Mixed Use Districts may be counted toward required off-street parking for non-residential uses. One on-street parking space may be substituted for each required off-street space. These provisions only apply to street frontages where all day on-street parking is allowed.
- G. **Calculation of Parking Requirements for Industrial Uses.** The following standards apply to specified and unspecified tenant spaces in industrial buildings:
1. ***Specified Tenants:*** Where tenants are specified and listed by name of company, parking is calculated according to uses identified on the floor plan.
 2. ***Unspecified Tenants:*** Where tenants are not specified, and the use described on the plans is industrial or warehouse, parking is calculated based on twenty-five percent of the floor space being used for office uses, and seventy-five percent of the space being used for warehouse use, based on the parking ratios for those uses specified in Table 410.04
- H. **Uses not Specified.** The parking requirement for any use not listed in Table 409.04 shall be determined by the Hearing Officer based upon the requirements for the most similar comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand. In order to make this determination, the Hearing Officer may require the applicant to submit a parking demand study or other information, at the applicant's cost.

409.05 Parking Area Design

- A. **Setback of Cross Drive Aisles.** Parking spaces or cross drive aisles along main drive aisles connecting directly to a street shall be set back at least 50 feet from the property line abutting the street.

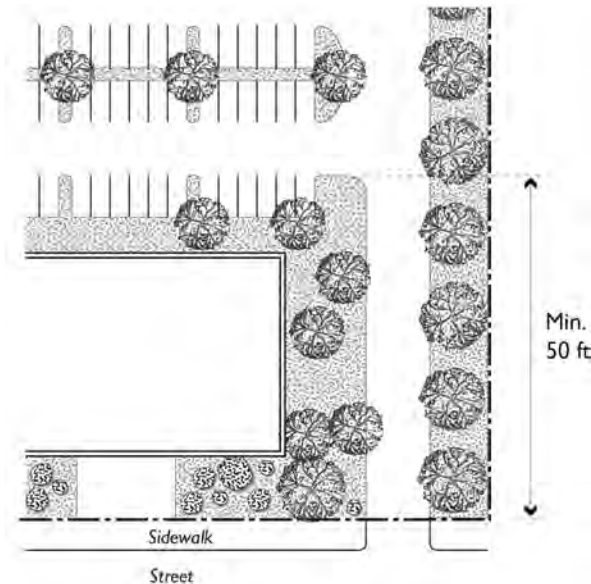


FIGURE 409.05.A: SETBACK OF CROSS DRIVE AISLES

- B. **Parallel Parking Spaces Abutting Wall or Fence.** Each parallel parking space adjoining a wall, fence, column, or other obstruction higher than 0.5 feet shall be increased by 2 feet on each obstructed side, provided that the increase may be reduced by 0.25 feet for each one foot of unobstructed distance from the edge of a required aisle, measured parallel to the depth of the parking space.
- C. **Optional Double-Line Striping.** Each parking space shall measure nine feet from center to center, with double stripes two feet apart.
- D. **Long-term Parking.** In parking areas, or portions of parking areas, restricted to employee use rather than customer or visitor use, and in which a vehicle is not normally moved during the period of an employee's work shift, the width of parking spaces may be reduced to 8.5 feet for standard and compact spaces.
- E. **Minimum Dimensions for Residential Carports.** Each single-car carport shall measure at least 10 feet wide by 20 feet long. Each double carport shall measure at least 18 feet wide by 20 feet long. The width of the carport is to be measured from inside face of support to inside face of opposite support. The carport roof shall cover the entire 20-foot length of the space.
- F. **Minimum Dimensions for Residential Enclosed Garages.** Enclosed garages serving residential uses shall be constructed to meet the following minimum inside dimensions.
1. A single-car garage shall be at least 10 feet wide and 22 feet long.

2. A double-car garage shall be at least 20 feet wide and 22 feet long.

G. **Surfacing.** All parking spaces and driveways shall be paved and maintained with asphalt or other surface approved by the Hearing Officer. Plans shall contain a cross-section of the parking lot indicating the composition and thickness of the materials to be used, as well as indicating the structural strength of the parking area. Any approval of an alternative dust-control surface by the Hearing Officer shall specify and require routine maintenance method(s) and schedule. Failure by the owner of the site to maintain the alternative surface according to the approved method(s) and schedule shall be considered a violation of this Code.

H. **Circulation and Safety.**

1. ***Internal Circulation.***

- a. Visibility shall be assured for pedestrians, bicyclists, and motorists entering individual parking spaces, circulating within a parking facility, and entering or leaving a parking facility.
- b. Internal circulation patterns, and the location and traffic direction of all access drives, shall be designed and maintained in accordance with accepted principles of traffic engineering and traffic safety.
- c. Off-street parking and loading areas shall be provided with sufficient maneuvering room so that all vehicles can enter and exit from a public street by forward motion only. This regulation does not apply to parking areas serving Single-Family Residences served by individual driveways. The maneuvering of vehicles necessary to enter or exit loading areas shall not occur on City streets.
- d. Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing unreasonable distances or making other dangerous or hazardous turning movements.

2. ***Parking Lot Layout.*** No more than 200 parking spaces shall be allowed together in one group or cluster. Parking lot clusters shall be separated by landscaping, pedestrian connections, cross aisles, retention basins or similar features.

- a. In office projects, 25 percent of the required parking spaces shall be provided within 200 feet of the building served, with the balance of the required parking within 400 feet.
- b. In commercial and industrial projects, a minimum of 50 percent of the required parking spaces shall be located within 300 feet of the building served.
- c. In residential mixed-use projects, required parking spaces shall be arranged to provide at least one parking space per unit within 200 feet of the dwelling units they are intended to serve.
- d. Drive aisle intersections are to be perpendicular to each other.
- e. Separate vehicular and pedestrian circulation systems shall be provided where possible.

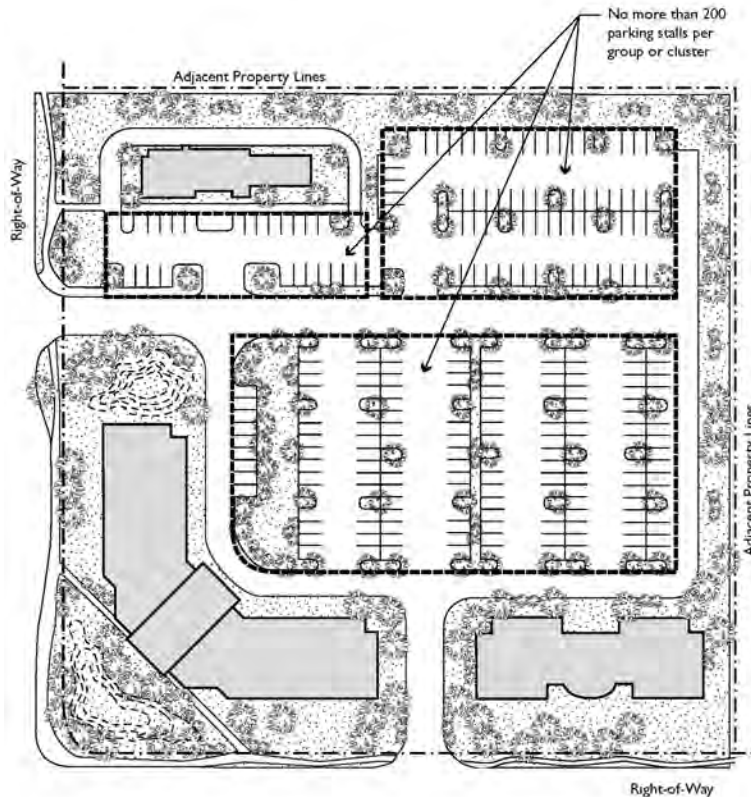


FIGURE 409.05.H.2.E: PARKING LOT LAYOUT

3. ***Pedestrian Access in Multi-Family Development.*** Multi-family residential developments of five or more units must be provided pedestrian access that is separate and distinct from driveways.
 - a. ***Connection to Public Sidewalk.*** An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally no more than 125 percent of the straight-line distance.
 - b. ***Materials and Width.*** Walkways shall provide at least four feet of unobstructed width and be hard-surfaced.
4. ***Pedestrian Access in Commercial and Mixed-Use Development.*** Parking areas for commercial and mixed-use developments that are 80 feet or more in depth and/or include 50 or more parking spaces must have distinct and dedicated pedestrian access from the commercial use to parking areas and public sidewalks, according to the following standards:

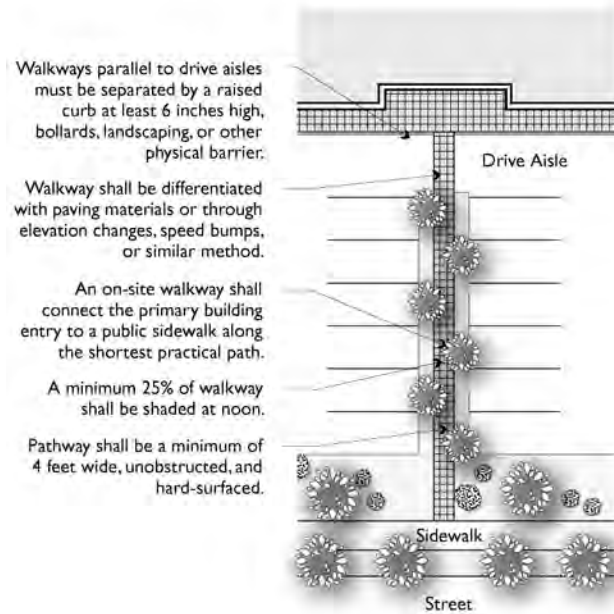


FIGURE 409.05.H.4: PEDESTRIAN ACCESS THROUGH PARKING AREAS

- a. *Connection to Public Sidewalk.* An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally no more than 125 percent of the straight-line distance.
 - b. *Materials and Width.* Walkways shall provide at least four feet of unobstructed width and be hard-surfaced.
 - c. *Identification.* Pedestrian walkways shall be clearly differentiated from driveways, parking aisles, and parking and loading spaces through the use of elevation changes, a different paving material, a different color, or similar method.
 - d. *Separation.* Where a pedestrian walkway is parallel and adjacent to an auto travel lane, it must be raised and separated from the auto travel lane by a raised curb at least six inches surfaced high, bollards, or other physical barrier.
5. ***Pedestrian Access in Industrial Development.*** Parking areas for industrial developments, including manufacturing, warehousing, call centers and similar employment uses, that are 80 feet or more in depth and/or include 50 or more parking spaces must have distinct and dedicated pedestrian access from the industrial use to parking areas and public sidewalks, according to the following standards:
- a. *Connection to Public Sidewalk.* An on-site walkway shall connect the main building entry and/or primary employee entrance and exit to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally

no more than 125 percent of the straight-line distance. This distance may increase up to 50 percent of the total straight-line distance in the event the route is designed to take account of afternoon shade patterns from buildings or similar shading devices.

- b. *Materials and Width.* Walkways shall provide at least four feet of unobstructed width and be hard-surfaced.
6. *Minimum Lighting Levels.* The lighting system for parking and loading areas and driveways serving them shall provide not less than 1.0 footcandle and not more than 5.0 footcandle overall average illumination, with a minimum of 0.25 footcandle on the paved surface of the parking and loading areas.

- I. **Alternative Parking Area Designs.** Where an applicant can demonstrate to the satisfaction of the decision maker that variations on the dimensions otherwise required by this section are warranted in order to achieve environmental design and green building objectives, including but not limited to achieving certification under the LEED™ Green Building Rating System or equivalent third-party system, a specific parking area design may be approved.

409.06 Parking Reductions

Required parking for any use may be reduced through approval of a Minor Use Permit.

- A. **Criteria for Approval.** A Minor Use Permit for reduced parking shall only be issued if the following criteria are found to be true:
 1. Special conditions—including but not limited to the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site—exist that will reduce parking demand at the site;
 2. The use will adequately be served by the proposed parking; and
 3. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.
- B. **Parking Demand Study.** In order to evaluate a proposed project's compliance with the above criteria, the Hearing officer may require submittal of a parking demand study that substantiates the basis for granting a reduced number of spaces and includes any of the following information:
 1. Total square footage of all uses within existing and proposed development and the square footage devoted to each type of use.
 2. A survey of existing on-street and off-street parking within 350 feet of the project site.
 3. Standard parking requirements for the use, based on Table 410.04.
 4. Estimated parking demand for the use, using any available existing parking generation studies from the Institute for Transportation Engineers (ITE), other professionally recognized and/or accredited sources. If appropriate parking demand

studies are not available, the City may require the applicant to conduct a parking demand survey of a development similar to the proposed.

5. Comparison of proposed parking supply with parking requirements.
6. A shared parking analysis, as appropriate.
7. A description any other characteristics of the site or measures being undertaken that could result in reduced parking demand, including staggered work shifts, telecommuting, shuttles to transit stations, or similar programs.

409.07 Alternative Compliance with Minimum Parking Requirements

- A. **Authorized Alternatives.** The Hearing Officer is authorized to approve alternative compliance parking permits for the following:
 1. Off-site parking (See C);
 2. Valet parking (See D);
 3. Residential Special Needs (See E); and
 4. Community Building(s) for Residential Development (See F)
- B. **Use Permit Required.** Applicants seeking approval of an alternative compliance parking plan must secure approval of Minor Use Permit.
- C. **Off-Site Parking.** The Hearing Officer may permit all or a portion of the required off-street parking spaces to be located on a remote and separate lot from the lot on which the principal use is located, subject to the standards of this section.
 1. **Location.** No off-site parking space may be located more than 1,000 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This distance limitation may be waived by the Hearing Officer if adequate assurances are offered that van or shuttle service will be operated between the shared lot and the principal use.
 2. **Zoning Classification.** Off-site parking areas are accessory to the principal uses that the parking spaces serve. Off-site parking areas require the same or a more intensive zoning classification as required for the most intensive of the uses served by the shared parking area.
 3. **Off-Site Parking Agreement.** An agreement providing for the use of off-site parking, executed by the parties involved, must be filed with the Hearing Officer, in an approved form. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. Agreements must guarantee long-term availability of the parking, commensurate with the use served by the parking. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.
- D. **Valet Parking.** Valet parking may be authorized through an Minor Use Permit as a means of satisfying up to 100 percent of otherwise applicable off-street parking ratios. In order to approve an alternative parking plan for valet parking the Hearing Officer must determine that the proposal satisfies the approval criteria of off-site parking (see C, above) and that the

valet parking will not cause interference with the public use of rights-of-way or imperil public safety.

- E. **Residential Special Needs.** If a developer can demonstrate that a Multi-Family Residential or Group Residential housing project designed for residents with special needs, such as senior citizens or handicapped individuals, will not generate a need for as much parking as such a project designed for a general market, the approving body shall have the authority to allow a reduction in the number of required parking spaces. Upon conversion of a senior citizen or other special needs group housing project to a general market apartment or condominium complex, parking must be provided consistent with the requirements of Table 409.04.
- F. **Community Building(s) for Residential Developments.** Community buildings used for the common benefit of residents within residential subdivisions or otherwise designed to be used by multiple-residence projects such as townhouse developments, apartments, residential condominiums, or manufactured home parks may substitute up to 50 percent of required full-size parking spaces with golf-cart spaces, motorcycle/scooter spaces, or bicycle parking. Up to 50 percent of the substituted spaces may be bicycle parking.

409.08 Bicycle and Motorcycle Parking

A. **Bicycle Parking**

1. **Spaces Required.** Bicycle parking is required for multi-unit residential buildings and nonresidential development. Unless otherwise expressly stated, buildings and uses subject to bicycle parking requirements must provide at least 3 bicycle parking spaces or at least one bicycle space per 10 off-street vehicle parking spaces actually provided, whichever is greater. After the first 50 bicycle parking spaces are provided, the required number of additional bicycle parking spaces is 1 space per 20 vehicle parking spaces.
2. **Design and Location.** Required bicycle parking spaces must:
 - a. Consist of racks or lockers anchored so that they cannot be easily removed and of solid construction, resistant to rust, corrosion, hammers, and saws;
 - b. Allow both the bicycle frame and the wheels to be locked using a standard U-lock;
 - c. Be designed so as not to cause damage to the bicycle;
 - d. Facilitate easy locking without interference from or to adjacent bicycles; and
 - e. Be located in convenient, highly visible, active, well-lighted areas without interfering with pedestrian movements.
 - f. Have minimum dimensions of two feet in width by six feet in length, with a minimum overhead vertical clearance of seven feet.

- B. **Motorcycle and Scooter Parking.** For any nonresidential use providing 50 or more off-street spaces, a maximum of 2 required off-street parking spaces per 50 vehicle spaces may be reduced in size or otherwise redesigned to accommodate parking for motorcycles and scooters. When provided, motorcycle and scooter parking must be identified by a sign.

Motorcycle and scooter parking spaces can be counted toward meeting the minimum number of spaces required for the development.

Article 410 Performance Standards

410.01 Purpose

The purposes of this Article are to:

- A. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions;
- B. Ensure that all uses will provide necessary control measures to protect the community from nuisances, hazards, and objectionable conditions; and
- C. Protect industry from arbitrary exclusion from areas of the City.

410.02 Applicability

The minimum requirements in this Section apply to all land uses in all Zoning Districts.

410.03 General Standard

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area.

410.04 Location of Measurement for Determining Compliance

Measurements necessary for determining compliance with the standards of this Article shall be taken at the lot line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance.

410.05 Noise

- A. **Noise Limits.** No use or activity shall create noise levels that exceed the following standards. The maximum allowable noise levels do not apply to noise generated by automobile traffic or other mobile noise sources in the public right-of-way.

TABLE 410.05.A: NOISE LIMITS					
Land Use Receiving the Noise	Noise-Level Descriptor	Exterior Noise Level Standard in Any Hour (dBA)		Interior Noise-Level Standard In Any Hour (dBA)	
		Daytime (7am-10pm)	Nighttime (10pm-7am)	Daytime (7am-10pm)	Nighttime (10pm-7am)
Residential	L ₅₀	55	45	40	30
	L _{max}	70	60	55	45
Medical, convalescent	L ₅₀	55	45	45	35
	L _{max}	70	60	55	45
Theatre, auditorium	L ₅₀	-	-	35	35
	L _{max}	-	-	50	50
Church, meeting hall	L ₅₀	55	-	40	40
	L _{max}	-	-	55	55
School, library, museum	L ₅₀	55	-	40	-
	L _{max}	-	-	55	-

1. ***Adjustments to Noise Limits.*** The maximum allowable noise levels of Table 411.05.A, Noise Limits, shall be adjusted as follows. No more than one increase in the maximum permissible noise level shall be applied to the noise generated on each property.
 - a. ***Ambient Noise.*** If the ambient noise level at a noise-sensitive use is 10 dBA or more below the standard, the allowable noise standard shall be decreased by five decibels.
 - b. ***Duration.*** The maximum allowable noise level (L_{50}) shall be increased as follows to account for the effects of duration:
 - (1) Noise that is produced for no more than a cumulative period of 15 minutes in any hour may exceed the noise limit by five decibels; and
 - (2) Noise that is produced for no more than a cumulative period of five minutes in any hour may exceed the noise limits by 10 decibels;
 - (3) Noise that is produced for no more than a cumulative period of one minute in any hour may exceed the noise limits by 15 decibels.
 - c. ***Character of Sound.*** If a noise contains a steady audible tone or is a repetitive noise (such as hammering or riveting) or contains music or speech conveying informational content, the maximum allowable noise levels shall be reduced by five decibels.
 - d. ***Prohibited Noise.*** Noise for a cumulative period of 30 minutes or more in any hour which exceeds the noise standard for the receiving land use.
- B. **Acoustic Study.** The Zoning Administrator may require an acoustic study for any proposed project that could cause noise levels to exceed the limits in Section 411.5.A. When the Zoning Administrator has determined that there could be cause to make adjustments to the standards, a minimum 24-hour duration noise measurement shall be conducted. The noise measurements shall collect data utilizing noise metrics that are consistent with the noise limits presented in Table 411.05.A (e.g., L_{max} 0 minutes), L_{02} (1 minute), L_{08} (5 minutes), L_{25} (15 minutes) and L_{50} (30 minutes). An arithmetic average of these ambient noise levels during the three quietest hours shall be made to demonstrate that the ambient noise levels are regularly 10 or more decibels below the respective noise standards. Similarly, an arithmetic average of ambient noise levels during the three loudest hours should be made to demonstrate that ambient noise levels regularly exceed the noise standards.
- C. **Noise Attenuation Measures.** Any project subject to the acoustic study requirements of paragraph (B) may be required as a condition of approval to incorporate noise attenuation measures deemed necessary to ensure that noise standards are not exceeded.
 1. New noise-sensitive uses (e.g., schools, hospitals, churches, and residences) shall incorporate noise attenuation measures to achieve and maintain an interior noise level of 45 dBA.
 2. Noise attenuation measures identified in an acoustic study shall be incorporated into the project to reduce noise impacts to satisfactory levels.

3. Emphasis shall be placed upon site planning and project design measures. The use of noise barriers shall be considered and may be required only after all feasible design-related noise measures have been incorporated into the project.

410.06 Vibration

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

410.07 Odors

No use, process, or activity shall produce objectionable odors that are perceptible without instruments by a reasonable person at the lot lines of a site. Odors from temporary construction, demolition, and vehicles that enter and leave the site (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

410.08 Heat and Humidity

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of five degrees Fahrenheit on another property.

410.09 Fire and Explosive Hazards

All activities, processes and uses involving the use of, or storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Fire fighting and fire suppression equipment and devices standard in industry shall be approved by the Fire Department. All incineration is prohibited with the exception of those substances such as, but not limited to, chemicals, insecticides, hospital materials and waste products, required by law to be disposed of by burning, and those instances wherein the Fire Department deems it a practical necessity.

Article 411 Signs (Proposed Amendment for Portable Signs)

The City recently adopted sign regulations, which represent “best practices”, and no substantial changes are warranted. However, stakeholders did raise the issue of A-frame signs and the seeming lack of effective controls, particularly in major transportation corridors. The following proposed amendment to current regulations for Portable Signs, would add additional restriction on maximum size, hours for display, prohibited locations, and prohibited materials, and to establish enforcement authority for removal of unauthorized portable signs. This enforcement authority is modeled on what Queen Creek has adopted.

Portable temporary signs are allowed in Multi-family Residential, Commercial and Mixed Use Zoning Districts and for public assembly uses, subject to the following standards.

- A. **Maximum Number.** Each establishment shall not have more than one portable sign.
- B. **Placement.** A-frame signs shall be placed on private property on the same lot as the establishment that qualifies for such sign.
- C. **Prohibited Locations.** A-frame signs shall not be located:
 - 1. In raised or painted medians;
 - 2. Across any street from the business being advertised;
 - 3. In parking aisles or stalls;
 - 4. In driving lanes;
 - 5. On multi-use trails;
 - 6. At any location where they would reduce the clear zone for pedestrian passage to less than four feet;
 - 7. Within 100 feet of a multi-tenant monument sign;
 - 8. Within 20 feet from any other A-frame sign; and
 - 9. Within 30 feet from an access drive or street intersection (e.g. within the the sight visibility triangle defined by this Code).
- D. **Hours for Display.** A-frame signs are permitted during the hours a business or apartment rental office is open for business. A-frame signs shall be removed during hours when the establishment is not open to the public and shall not be displayed after the event with which they are associated is over.
- E. **Maximum Size.** Five square feet in area.
- F. **Maximum Height.** Three feet.
- G. **Materials.** The supporting structure of A-frame signs shall not be constructed from plastic.
- H. **Permit Required.** A sign permit is required to display temporary A-frame signs.
- I. **Authority to Remove Unauthorized Signs.** The City’s Code Enforcement Officer may remove unauthorized A-frame signs. Unauthorized signs so removed shall be disposed of after the City provides notice to the organization, responsible person, or establishment identified by the sign. A notice shall be sent within five days of the removal notifying the organization, responsible person, or establishment to claim the unauthorized sign at a

location specified in the notice with a specified time period. If unclaimed after the time period lapses, the City may dispose of the unauthorized sign. If an organization, responsible person or establishment is not identified by the sign, the sign may be disposed of no sooner than five days after removal.

To allow for additional perimeter signage for businesses within shopping centers and reduce the need for off-site A-frame signs, the following amendments are proposed for the current regulations for freestanding monument signs:

J. Permitted Permanent Signs

1. Commercial and Industrial Districts

a. Freestanding and Monument Signs.

- (1) For multiple building developments or commercial centers one
- (2) Sign may be permitted on any lot with 100 feet of street frontage and one additional freestanding sign for every three hundred feet of street frontage over 100 feet for the entire development. The individual buildings within the development and/or the pad sites within the commercial center shall not be considered as separate developments. The minimum distance between two (2) signs on the same street frontage shall be three hundred (300) feet. Each sign may be eight (8) feet high and a maximum of forty-eight (48) square feet in area and may be either a center identification sign or a multi-tenant identification sign. One half of the Monument Sign Area may be a Changeable Message Sign, subject to administrative approval.

Article 412 Telecommunications Facilities

412.01 Purpose

- A. The purpose of this Article is to establish general guidelines for the installation of wireless communications towers and antennas. The goals of this Article are to:
1. Minimize the adverse visual effects of towers through careful design, siting, and screening, while preserving the rights of wireless telecommunications providers;
 2. Encourage the location of towers in non-residential areas;
 3. Minimize the total number of towers throughout the community;
 4. Strongly encourage the joint use (co-location) of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and
 8. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

412.02 Applicability

- A. **New Towers and Antennas.** All new towers or antennas in the City of Maricopa shall be subject to these regulations.
- B. **Mobile and Temporary Antennas.** All new mobile and temporary antennas in the City of Maricopa shall be subject to these regulations.
- C. **Amateur Radio Towers and Antennas.** This Article shall govern the installation of any tower or antenna that is an Amateur Radio Station Operators/Receive Only Operations, that is under the maximum building height of the zoning district in which such structure is located and which is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only operations.
- D. **Exceptions**
1. Legally established pre-existing towers and pre-existing antennas with a valid Conditional Use Permit shall not be required to meet the requirements of this Article. Modification to preexisting towers and antennas that substantially increase the physical dimensions of the tower, antenna, or equipment, as deemed by the Zoning Administrator or designee, are required to comply with this article. All other pre-existing towers and preexisting antennas without an approved use permit shall meet the requirements of this Article accordingly.

2. For purposes of implementing this Article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Additional tower units may be added within the perimeter of the AM array by right.

412.03 General Requirements

- A. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of all existing towers, antennas, or sites within 5 miles of the proposed location for towers or antennas, that are either within the jurisdiction of the City of Maricopa or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The City of Maricopa Development Services Department shall maintain a map and database with the above information available for public review and purchase; however the accuracy of the information is subject to change. It shall be the responsibility of the applicant to verify and update any information provided by the City.
- C. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- D. **Lighting.** Towers shall not be artificially lit, unless required by the FAA or other applicable authority, or as otherwise approved by the City Council. If lighting is required for ground equipment, a lighting plan shall be submitted in accordance to the Subdivision Ordinance, Section 14-6-15.
- E. **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA) and by the Telecommunications Industries Association (TIA), as amended from time to time. If, upon inspection, the City of Maricopa concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards, or as otherwise specified in writing by the City of Maricopa Building Official. Failure to bring such tower into compliance within said 30 days, or as otherwise specified, shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- F. **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Maricopa irrespective of municipal and county jurisdictional boundaries.
- G. **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities, unless the tower and antennas' sole purpose is to provide government sanctioned public safety communications.
- H. **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Maricopa have been obtained and shall file a copy of all required franchises with the City.
- I. **Signs.** No signs shall be allowed on an antenna, on a tower or on any portion of the premises leased for wireless telecommunication use, except for a permanent, weather-proof identification sign, approximately 16 inches by 32 inches in size, must be placed on the gate of the fence or wall surrounding the facility or, if there is no fence or wall, on the facility itself. The sign must identify the facility operator(s), provide the operator's address, and specify a 24-hour telephone number for reaching the operator or an agent authorized to provide 24/7 response to emergency situations.
- J. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the following requirements:
 - 1. Roof-mounted or facade-mounted antennas proposed on an existing building, or on a tower, pole or other structure shall not extend or project more than ten (10) feet above the existing height of the building or structure.
 - 2. Antenna support equipment that is roof mounted shall meet the screening requirements of this Article.
- K. **Design Standards.** Antennas, antenna support structures, and related equipment shall be located, designed, and screened to integrate and compliment the existing natural or built surroundings and existing supporting structures.
 - 1. All facilities shall be designed and located to minimize their visibility to the greatest extent feasible. All wireless telecommunication facilities proposed for locations where they would be readily visible from adjacent property and public right-of-way (measured from the center of the tower location) shall incorporate appropriate techniques to disguise the facility and/or blend into the surrounding environment, to the extent feasible. Facilities shall be compatible in scale and integrated architecturally with the design of surrounding buildings or the natural setting. Appendix A of this Article, "Design Standards for Wireless Communication Facilities", provides additional standards with supporting illustrations to assist applicants in designing facilities to meet the intent of this Code.
 - 2. Antenna support equipment for stand-alone facilities shall be screened by a maximum eight foot high masonry wall or placed within a fully enclosed building. When placed within a fully enclosed building, the building design shall be no taller

than one story or 15 feet in height with elevations designed and constructed in a manner compatible with architectural designs found in the area.

3. ***Freestanding Antenna(s)***
 - a. Antenna facilities that are not camouflage or stealth shall be close mount, to the extent possible.
 - b. iStealth or camouflaged facilities shall not have antenna mounts that extend beyond the outside edge (array) of the materials used to provide the stealth or camouflage design.
 - c. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - d. Wireless telecommunications facility support structures and antennas shall be a non-glossy color and/or exterior finish shall be painted so as to minimize visual impacts from surrounding properties.
4. ***Building Mounted Antenna(s)***. If an antenna is installed on a building, the antenna and supporting electrical and mechanical equipment must be architecturally integrated in a manner that is identical to, or closely compatible with, the color of the building structure so as to make the antenna and related equipment as visually unnoticeable as possible. Refer to Appendix A for preferred design.
5. ***Alternative Tower Mounted Antenna(s)*** (water tower, street or utility poles, signs, etc). Antennas proposed on the exterior of a structure shall be designed in a manner to appear as an integral element of the structure.
6. ***Stealth Tower and Antenna(s)***. When an alternative tower or co-location does not exist on a parcel adjacent to residential use, stealth design shall be provided in accordance to Table A. A stealth facility shall be designed and constructed to appear architecturally integrated with the surrounding built environment or the natural setting to minimize the adverse visual impact and ensure the facility is compatible with the environment in which it is located.
- L. **Co-location and Multiple Antenna/Tower Plan.** The City of Maricopa encourages tower and antenna users to submit a single application for approval of multiple towers and/or antenna sites and to submit applications which utilize co-location with an existing wireless telecommunications provider.
- M. **Modification of Building Size Requirements.** The requirements of this Article may be modified by the City Council in the case of uses permitted by conditional use to encourage co-location.
- N. **Site Security.** Outdoor ground equipment shall be enclosed with a maximum eight (8) foot high masonry wall, shall be constructed of a block or masonry, or secured in a method as otherwise determined by the Zoning Administrator. All towers shall be equipped with an anti-climbing device.

- O. **Landscaping.** The following requirements shall govern the landscaping surrounding towers; provided, however, that the City Council may reduce or waive such requirements if the goals of this Article would be better served thereby.
1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residential property and commercial property or viewable from public right of way. The standard buffer shall consist of a landscaped strip at least eight feet wide outside the perimeter of the compound and any other areas disturbed during construction;
 2. Every 20 lineal feet of the enclosure of the building shall be landscaped with drought tolerant plants at a rate of one 24 inch box tree and ten 10 gallon size shrubs. All landscaping shall be irrigated for a minimum period of one year. Landscaping shall be maintained throughout the life of the facility;
 3. Additional landscaping may be required, at the discretion of the Zoning Administrator to effectively blend certain applications with the natural environment; and
 4. Existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible.
- P. **Parking.** Minimum of one 9 foot by 18 foot off street parking space shall be required for the ongoing and maintenance of the facility. Parking and maneuvering areas shall be surfaced with approved all weather access as determined by the City Engineer.
- Q. **Noise.** No permit (Conditional or Administrative Review) shall be issued for any facility which generates a noise level greater than fifty decibels (db) as measured at the edge of the property upon which such facility is sited.
- R. **Term.** In the event a building permit is not received within two years or as otherwise stipulated, or reasonable effort is not made to receive a building permit as determined by the Zoning Administrator, the Administrative Review or Conditional Use Permit shall expire. Each Administrative Review or Conditional Use Permit issued shall be for a period of years years for Freestanding Tower and Antenna applications, and a period of 10 years for Building Mounted Antennas, Alternative Tower Mounted Antennas, and Stealth Tower and Antennas. At the end of the above specified term, the permit shall automatically expire unless a written request for renewal is submitted by the applicant, prior to expiration, to the Zoning Administrator. The City shall notify the applicant in writing at least 90 days prior to the expiration date of the permit for the facility. Upon the expiration of any required permits for the facility, it shall be removed in accordance with the requirement of Section I, of this Article. If a request for renewal of the required permit(s) is received, the permit shall remain in effect until a decision on the renewal is made. The renewal request shall be reviewed in a similar manner as the original approval. The review is to insure that the facility is still in operation, that it has been properly maintained, that the original conditions of approval have been adhered to and whether they are to remain the same or need to be modified, and to determine if new technology exists to upgrade the facility to better meet the purpose, intent, goals and provisions of this Article. If new technology exists that will allow the redesign or relocation of the facility to better meet the purpose, intent, goals and provisions of this

Article, then the facility must be redesigned and/or relocated accordingly. Failure to comply with this requirement may be considered grounds for denial of a new permit.

The City may add conditions to any new permits as necessary to advance a legitimate governmental interest related to health, safety, or welfare, provided, however, that any condition shall comply with applicable FCC regulations and standards, and that reasonable advance notice thereof has been provided to all affected parties. If a permit is not renewed, the city shall give the applicant written notice thereof together with the rationale on which the city's decision was made.

412.04 Permitted Uses

- A. **General.** The uses listed in this Section are deemed to be permitted uses and shall require zoning clearance through an Administrative Review application.
- B. **Permitted Uses.** The following uses are specifically permitted:
 - 1. ***Wireless Communication Facility.*** Are permissible in any Rural Zoning Districts, Commercial and Mixed-Use Zoning Districts, or Industrial Zoning Districts; provided, however, that freestanding towers or antennas shall not exceed the maximum height of the applicable Zoning District and shall comply with the following:
 - a. Meet the minimum setback within the Zoning District in which the facility is proposed; and
 - b. Towers and antennas shall be set back a distance equal to at least 100 percent of the height of the tower and antenna from any adjoining lot line. In Industrial Zoning Districts, towers and antennas are allowed a maximum height of 65 feet when the lot or parcel is located greater than 400 feet from a residential use.
 - 2. Amateur radio towers and antennas located in any Rural or Residential Zoning Districts, however, that freestanding towers or antennas shall not exceed the maximum height of the applicable Zoning District and shall comply with the following:
 - a. Setback: Towers and antennas shall be set back a distance equal to at least 100 percent of the height of the tower or antenna from any adjoining lot line.
 - b. Amateur radio towers and antennas are prohibited in any front yard and shall not be placed in front of the front face plane of the principal building.
 - c. If an Amateur Radio Tower is located within a controlled Home Owner Association, the applicant is encouraged to comply with the Community's Conditions Covenants and Restrictions (CC&R's).
 - 3. ***Limitation on Quantity of Towers by Zoning District.***
 - a. All other zoning districts: One radio tower and/or antenna permitted per lot of record.

- b. Additional towers, greater in number than prescribed above, may be permitted in any zoning district, but shall be subject to securing a conditional use permit as set forth in Section F below.
- c. Towers are prohibited in any airport clear zone or landing zone designated by the FAA.

412.05 Conditional Use Permits

A. **General.** The following provisions shall govern the issuance of Conditional Use Permits for towers or antennas by the City Council:

- 1. For purposes of this Section F, any conditional use permit request shall require public notice pursuant to City's Ordinance 07-01, Citizen Participation Requirements, as may be amended from time to time;
- 2. If the tower or antenna does not meet the requirements of Section E above or does not meet the requisite dimensional requirements, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts;
- 3. Applications for Conditional Use Permits under this Article shall be subject to the procedures and requirements of Article 503, Use Permits, except as specifically modified in this Article;
- 4. In granting a Conditional Use Permit, the City Council may impose conditions to the extent such conditions are necessary to minimize any adverse effect of the proposed tower;
- 5. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by an Arizona licensed professional engineer; and
- 6. A Conditional Use Permit issued under this Article shall be conditioned upon verification by the engineer or his/her designee that such tower or antenna is structurally sound, prior to final inspection.

B. **Tower and Antenna Information Required.** In addition to any information required for applications for a Conditional Use Permit pursuant to Article 503, applicants for a conditional use permit for a tower or antenna shall submit the following information:

- 1. A scaled site plan clearly indicating the location, type and height of the proposed tower or antenna, including:
 - a. On-site structures, land uses and zoning designation(s).
 - b. Adjacent structures, land uses and zoning within 20 feet of the property line (including when adjacent to other municipalities).
 - c. The setback distance between the proposed tower or antenna to all nearest building structures, residential, uses, and commercial and industrial zoned properties as set forth in Table A.
 - d. Adjacent roadways and proposed means of access.

- e. Required and proposed setbacks from property lines.
 2. Color elevation drawings of the proposed wireless facility and associated structures as deemed by the city to be necessary to assess compliance with this Article;
 3. A photo simulation of the proposed tower and structures associated with the wireless facility as seen from adjacent right-of-way(s). Staff may request additional simulations as necessary to determine the visual impact of the proposed facility;
 4. The separation distance from other towers or antennas described in the inventory of existing sites submitted, pursuant to Section D.3 of this article, shall be shown on a site plan or map. The applicant shall also identify the type of construction of the existing tower(s) or antenna(s) and the owner/operator of the existing tower(s) or antenna(s), if known;
 5. A description of compliance with Section D, "General Provisions", and Table A, and all applicable federal, state, county or local laws;
 6. A notarized statement by the applicant as to whether construction of the tower or antenna will accommodate co-location of additional towers or antennas for future users;
 7. An analysis explaining the reasons co-location is not feasible on existing towers, antennas, or other vertical structures in the vicinity, and describing the alternative technologies considered to provide similar services in lieu of a new tower or antenna;
 8. A description of the feasible alternative location(s) of future towers or antennas within the City of Maricopa based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is not erected;
 9. A statement of compliance with applicable Federal Communications Commission (FCC) Radio Frequency (RF) exposure standards; and
 10. Additional information may be required as deemed necessary to determine compliance with the goals of this Article.
- C. **Factors Considered in Granting Conditional Use Permits for Towers or Antennas.** In addition to any standards for consideration of conditional use permit applications pursuant to this Article, the City Council shall consider the following factors in determining whether to issue a conditional use permit, although the City Council may waive or reduce the burden on the applicant of one or more of these criteria if the City Council concludes that the goals of this Article are better served thereby:
1. Height of the proposed tower or antenna;
 2. Proximity of the tower or antenna to any residential structures and uses;
 3. Nature of uses on adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and vegetation;

6. Design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress; and
8. Analysis on the availability of suitable existing towers, antennas, other structures, or alternative technologies not requiring the use of towers or antennas, as discussed in subsection F(4) below.

D. **Availability of Suitable Existing Towers, Antennas, Other Structures, or Alternative Technology.** No new tower or antenna shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City Council that no existing tower, antenna, structure, or alternative technology that does not require the use of towers, antennas or structures can accommodate the applicant's proposed tower or antenna. An applicant shall submit information requested by the city related to the availability of suitable existing towers, antennas, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, antenna, structure, or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any one or more of the following:

1. No existing towers, antennas or structures are located within the geographic area which meets applicant's engineering requirements;
2. Existing towers, antennas or structures are not of sufficient height to meet applicant's engineering requirements;
3. Existing towers, antennas or structures do not have sufficient structural strength to support applicant's proposed tower or antenna and related equipment;
4. The applicant's proposed tower or antenna would cause electromagnetic interference with the equipment on the existing towers, antennas or structures, or the existing towers, antennas or structures would cause interference with the applicant's proposed tower or antenna;
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower, antenna or structure or to adapt an existing tower, antenna or structure for sharing are unreasonable. For this purpose, costs exceeding the construction of a new tower or antenna are presumed to be unreasonable;
6. The applicant demonstrates that there are other limiting factors that render existing towers, antennas and structures unsuitable;
7. The applicant demonstrates that an alternative technology that does not require the use of towers, antennas or structures, such as a cable microcell network using multiple low-powered transmitters or receivers attached to a wireless system, is unsuitable. For this purpose, costs of alternative technology that exceed new tower or antenna development shall be presumed to render the technology unsuitable; or
8. If the proposed location is in a residential district, that the location is necessary for the provision of personal wireless services to Maricopa residents and businesses, or their owners, customers, guests, or invitees, or other persons traveling in or about the City based on substantial evidence that siting the facility outside of a residential district is infeasible and without the proposed facility, the operator will be unable to

provide personal wireless services to its customers in the proposed coverage area, or unable to provide the capacity necessary to meet call and data volumes.

9. ***Minimum Setback, Separation and Maximum Height Requirements.*** The following height, setback and separation standards shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City Council may reduce the standard setback, separation and height requirements if the goals of this Article would be better served thereby:
 - a. Towers and antennas shall be set back a distance equal to at least 100 percent of the height of the tower or antenna from any adjoining lot line, excluding existing Alternative tower structures; provided, however, that separation distances from residential uses shall be in accordance with Table A, set forth below.
 - b. Accessory buildings must satisfy the minimum zoning district setback requirements set forth in the Zoning Code.
 - c. Separation distances between towers and antennas shall be measured between the proposed tower or antenna and preexisting towers or antennas. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower or antenna and the proposed base, pursuant to a site plan, of the proposed tower or antenna. The separation distances (listed in linear feet) shall be as shown in Table A, set forth below.

TABLE 412.05.A: TELECOMMUNICATION FACILITIES SETBACK, SEPARATION AND MAXIMUM HEIGHT STANDARDS			
	<i>Max height in all Zoning Districts</i>	<i>Setback from residential uses</i>	<i>Separation from other antennas over 50' height</i>
Freestanding	65'	400'	600'
Alternative/ Co-Location	10' above existing structure	300'	600'
Buildings	15' above existing structure	150'	-
Stealth	75'	100% of height to property line	-

412.06 Co-Location.

- A. **Good Faith.** Applicants and permittees shall cooperate and exercise good faith in co-locating wireless telecommunications facilities on the same support structures or site, if the

City so requests. For the purposes of this section only, a site may accommodate more than one tower and its accompanying equipment so long as the site exceeds five acres. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an excuse to the duty of good faith.

- B. **Third Party Technical Review.** In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at the applicant's expense. The City may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.
- C. **Exceptions.** No co-location may be required where the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing wireless telecommunications facilities or failure of the existing wireless telecommunications facilities to meet federal standards for emissions.
- D. **Violation; Penalty.** Failure to comply with co-location requirements when feasible may result in denial of a permit request or revocation of an existing permit.

412.07 Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of 180 days shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 60 days of receipt of notice from the City of Maricopa notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 60 day period shall be grounds for the City to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower for the prescribed period.

412.08 Non-conforming Uses

- A. **Not Expansion of Non-conforming Use.** Towers that are constructed and antennas that are installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a non-conforming use or structure.
- B. **Pre-existing Towers.** Pre-existing towers or antennas shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers or antennas. New construction other than routine maintenance on a pre-existing tower or antenna shall comply with the requirements of this Article.
- C. **Rebuilding Damaged or Destroyed Non-conforming Towers or Antennas.** Notwithstanding other provisions of this Article, bona fide non-conforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a conditional use permit and without having to meet the separation requirements specified herein. Bona fide non-conforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain a conditional use permit and without having to meet the separation requirements specified in Section G(1) and (2). The type, height, and location of the tower or antenna onsite shall be of the same type and intensity as the original facility approval; provided, however, that any destroyed lattice or guyed tower shall be replaced with

a monopole structure only. Building permits to rebuild the facility shall comply with the current adopted building codes and shall be obtained within 90 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section H, herein.

412.09 Special District Requirements

Heritage District. All proposed tower and antenna Conditional Use Permit requests for properties located within the Heritage District boundaries require review and written recommendation from the Heritage District Advisory Committee to the Planning & Zoning Commission, prior to the initial Public Hearing for such request.

Definitions for Module 3

Adequate Public Facility Terms

“*Adequate*” shall mean meeting the established minimum standards in this Code.

“*Available Capacity*” shall mean the existing Capacity and planned Capacity less existing demand and demand that will be generated by Committed Development.

“*Binding Agreement*” shall mean an agreement with the force of law made between the City and Applicant(s) that specifies the Applicant’s responsibility regarding project phasing and financial obligations for public facility improvements that must be taken on in order for roads, water, wastewater, drainage, parks and open space, and schools facilities to be declared adequate for the purposes of this Article.

“*Capacity*” shall mean the maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

“*Capital Improvements Program (CIP)*” shall mean a plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years. “Capital Improvements Program” may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

“*Committed Development*” shall mean development with an approved determination of adequacy; or developments which are approved, but which are unbuilt, and unexpired plats, preliminary subdivision plats, or minor development final plats; or final plats or building permits approved without a determination of adequacy.

“*Development Pool*” shall mean an approved, not sunsetted, and unbuilt lots having a legal claim to the City’s sewer and/or water capacity or development projects of any type that are approved and under construction.

“*Equivalent Dwelling Unit*” shall mean the flow of water or wastewater equivalent to the average flow of a single-family residential dwelling unit. Each Equivalent Dwelling Unit shall equal X gallons per day for the purposes of water and Y gallons per day for the purposes of wastewater.

“*Inadequate*” shall mean not meeting the established minimum standards in this Code.

“*Individual*” shall mean a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or the manager, lessee, agent, servant, officer, or employee of any of them.

“*Level of Service (LOS)*” shall mean a qualitative measure, ranging from A (free flow) to F (forced), describing operational conditions of a transportation facility. Procedures for determining LOS are defined in the current Highway Capacity Manual (HCM) published by the Transportation Research Board (TRB) but are subject to modification by Arizona Department of Transportation (ADOT) when applied in this Article.

“New Development” shall mean new subdivisions or site plans for new construction received for approval by the City Council after the effective date of this Article.

“Phase” shall mean a period of construction resulting in the completed construction of a number of units equal to or less than the total number of units of approved New Development.

“Public Facilities” shall include roads, water, wastewater, drainage, parks and open space, and school facilities.

“Site Plan” shall mean a plan, to scale, showing uses, structures, and other improvements for a parcel as required by the City.

“Start of Construction” shall mean the point in time commemorating the breaking of ground for the construction of approved New Development or a phase of that development.

“Unit-type” shall mean a simple description that implies the use, general size, and general appearance of a structure, including, but not limited to, townhome, single-family, and apartment.

“Utility Representative” shall mean an individual qualified to check the accuracy of statements regarding the capacity, usage, and estimated future usage of the City’s water or sewer systems. If the City owns and operates the system in question then this individual shall be the duly designated Engineer of the City. If the City does not own and operate the system in question then this individual shall be an engineer in the employ of the system’s owner or operator.

Green Building Terms

“Compliance Official” means the Director of Development Services, or designee.

“Compliance Threshold” means the minimum requirements, or the number of points or rating level per a green building rating system that must be attained to receive an incentive for a particular Covered Project, as outlined in the Incentives for Compliance in Section ____.

“Covered Project” means any one of the following planning entitlement application(s) requiring legislative actions by City Council: Rezone General Plan Amendment, PAD Plan, subject to Standards for Compliance outlined in Section ____.

“Good Faith Effort” means a project that has not met the required compliance threshold, but for extenuating reasons or reasons beyond the control of the applicant, the Compliance Official has found the project meets the good faith effort provisions.

“Green Building” means a whole systems approach to the design, construction and operation of buildings that substantially mitigates the environmental, economic, and social impacts of conventional building practices. Green building practices recognize the relationship between the natural and built environments and seek to minimize the use of energy, water and other natural resources and provide a healthy, productive indoor environment.

“Green Building Project Phecklist” means a checklist or scorecard developed for the purpose of calculating a green building rating.

“Green Building Rating System” means the rating system associated with specific green building performance criteria and used to determine rating levels or compliance thresholds to receive an incentive, as outlined in Incentives for Compliance adopted by City Council resolution. Examples of rating systems include, but are not limited to, LEED, GreenPoint Rated, and Built Green Santa Barbara systems.

“GreenPoint Rater” means an inspector certified by the Build it Green organization to performs all steps of the rating process, including helping the project team decide which points to achieve, verifying each green measure, and submitting the application and supporting documentation to Build It Green.

“Home Energy Rating System (HERS)” means the rating of a home as a system, where a home is rated on a scale from 0 to 250 points to show its efficiency relative to a reference home built to just meet International Building Code requirements.

“LEED®” means the “Leadership in Energy and Environmental Design” green building rating system developed by the U.S. Green Building Council.

“Non-Covered Project” means any project that does not require in its planning entitlement application(s) any of the specified legislative actions by City Council to obtain approval, but is encouraged to undertake green building practices, with certain incentives for certain measures provided for in the Incentives for Compliance.

“Qualified Green Building Professional” means a person trained through the USGBC as a LEED Accredited Professional (LEED AP) or through Build It Green as a Certified Green Building Professional (CGBP), or Third Party Verifier as certified by Built Green Santa Barbara or similar qualifications if acceptable to the Compliance Official.

Telecommunication Terms

Alternative Tower Structure means, any existing or proposed vertical structure that is designed to contain a wireless communication antenna including but not limited to clock towers, bell steeples, light poles, ball field lights, wind mills, and similar alternative mounting structures that may be used to attach antennas and towers to minimize impact (see also Stealth).

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Array means one or more rods, panels, discs or similar devices used for transmission or reception of radio frequency (RF) signals through electronic energy, which may include omni-directional antenna (whip), directional antenna (panel) and parabolic antenna (dish).

Close Mount means the antenna and appurtenances are designed in a manner to reduce the visual impact of the facility by tightly clustering the devices or equipment(s).

Existing Structure means light poles, power poles, flagpoles, buildings and any other similar vertical structures which are placed within the City.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means when referring to a tower or other structure, the vertical distance measured from the natural grade level to the highest point of the structure directly above the natural grade when such structure is not located in a platted subdivision. If the structure is located in a platted subdivision, the height shall be the vertical distance measured from the finished grade as shown on the subdivision grading plans or finished grade as shown on the individual lot’s grading plan (whichever is lower) to the highest point of the structure directly above the finished grade. In the event that terrain problems

prevent an accurate determination of height, the Zoning Administrator shall rule as to height and appeal from that decision shall be to the Board of Adjustment.

The height limitations for each zoning district applicable to buildings and structures shall apply to all towers and antennas that are not exempt from regulation as provided in this Article. The height of building-mounted antennas shall include the height of that portion of the building on which the antenna is mounted. In determining the height of portable “crank-up” or similar towers whose height is adjustable, the height of the tower shall be the maximum height to which it is capable of being raised.

Mobile Antenna(s) also known as Cell on Wheels (COW) or temporary antenna means a mobile cell site that consists of a cellular antenna tower and electronic radio transceiver equipment maybe located on a truck or trailer, designed to be a temporary part of a cellular network.

Pre-existing towers and pre-existing antennas means any tower or antenna for which a building permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed, so long as such approval is current and not expired.

Residential Use means property that is specifically used for or planned for future residential occupancy, including platted lots and vacant undeveloped parcels of land located in a residential zoning district. This term excludes public or quasi-public uses located in residential zoning districts, such as parks, open space, retention areas, churches, schools, or other undevelopable tracts of land.

Site means the physical location upon which wireless telecommunications facilities are located. Unless otherwise stated in this ordinance, “site” shall be limited to the area occupied by a single tower and its accompanying ground- or roof-mounted equipment.

Stealth means man-made trees, clock towers, palm trees, faux wind mills and water towers, chimneys and similar structures to design mounting structures that camouflage or conceal the presence of antennas and towers.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, stealth towers and alternative tower structures. The term also includes the structure and any support thereto.

Utility means a private business organization, subject to governmental regulation, that provides an essential commodity or service, such as water, electricity, transportation, or communication, to the public.

This page intentionally left blank.

DYETT & BHATIA
Urban and Regional Planners

755 Sansome Street, Suite 400
San Francisco, California 94111
☎ 415 956 4300 📠 415 956 7315